

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2023-09

AN ORDINANCE AMENDING CHAPTER 310: “NOISE” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO UPDATE NOISE REGULATIONS TO ADDRESS CURRENT ISSUES AND NUISANCES WITHIN THE BOROUGH, ESPECIALLY DURING THE SUMMER SEASON.

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, the Borough of Bradley Beach (the “Borough”) is empowered and authorized by State law to enact ordinances regulating noise in order to protect the public health, safety, and welfare of the residents and visitors to the Borough; and

WHEREAS, the Mayor and Council find it to be in the best interests of the general welfare of the Borough to update such noise regulations to address current issues and nuisances within the Borough, especially during the summer season;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:.

SECTION 1. Chapter 310: “Noise” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 310

NOISE

§ 310-1 Noise prohibitions.

It shall be unlawful for any person to permit, make or continue or cause to be permitted, made or continued any unnecessary noise which shall disturb the comfort, rest and repose of any person being in his own place of abode or at any public or private meetings or at houses of worship. It shall also be unlawful to make or cause or permit to be made or caused upon any premises owned, occupied or controlled by him, in any public place or upon any public street, alley or thoroughfare in the Borough any unnecessary noises or sounds by means of the human voice or by any other means or methods which are physically annoying to persons or which are so harsh, prolonged, unnatural, or unusual in their use, time and place as to occasion physical discomfort or which are injurious to the lives, health, peace and comfort of any inhabitant of the Borough.

§ 310-2 Definitions.

Terminology used in this chapter shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body, unless specifically defined in this section. These shall include the following meanings:

AMBIENT NOISE LEVEL

The sound-pressure level of the 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 90% of the time/L90 based on a one-hour period.

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.

CONSTRUCTION

To erect (including excavation), repair, alter or demolish any buildings, structures, streets, alleys or appurtenances thereto.

CONTINUOUS NOISE

A steady, fluctuating, or impact noise which exists, essentially without interruptions, for a period of one 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

The Police Department of the Borough of Bradley Beach.

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 a 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 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.

HOLIDAY

~~Any legal holiday.~~ Any day or date listed in the Federal Holiday Schedule.

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, and as otherwise defined in N.J.S.A. 39:1-1 et seq.

MOTORBOAT

Any vehicles which are primarily operated on water or which does operate on water, such as boats, barges, amphibious craft or hover craft, and which is at any time propelled by mechanical power.

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 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 MODEL 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, rockets, and which can be propelled by mechanical means.

PROPERTY BOUNDARY

An imaginary line at the ground surface, which separates the real property owned by one 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 contiguous one-third octave bands by five dB for frequencies of 500 Hz and above, by eight dB for frequencies between 160 and 400Hz and by 15 dB for frequencies less than or equal to 125Hz.

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 dB(A).

SOUND

A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at 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, fire fighters, 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

Any Monday, Tuesday, Wednesday, Thursday, or Friday which is not a ~~Holiday~~ legal holiday.

WEEKEND

Any Saturday or Sunday.

§ 310-3 Unlawful acts.

Without intending to limit the generality of § 310-2, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise, which constitute continuous noise and/or noise disturbance in violation of this chapter, and it shall be unlawful for any person at any time other than as specifically excluded hereafter:

- A. *Radios, Television Sets, Musical Instruments, and Similar Devices.* To play, use, operate or permit to be played, used or operated any radio receiving set, musical instrument, phonograph, television or other device for the production or reproduction of sound ~~with louder volume than is necessary for convenient hearing of the person so playing, using or operating such instrument or device and such persons who are voluntary listeners, or in~~

such manner as to cause a noise disturbance, or in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants. This includes operating any such device between the hours of 10:00 p.m. and 8:00 a.m. the following day in such a manner as to be plainly audible across real property boundaries, or through partitions common to two parties within a building, or plainly audible at 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.

~~B. For advertising purposes or for the purpose of attracting the attention of the passing public, to play, use, operate or permit to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, television or other machine or device for the producing or reproducing of sound on the streets or public places of the Borough or in any place where the sound therefrom is cast directly upon the streets or public places or which is so placed and operated that the sound can be heard to the annoyance or inconvenience of travelers upon any street or public place or of persons in neighboring premises.~~

B. Advertising exterior loudspeakers, amplifiers, musical instruments, or other devices. Using or operating any mechanical, musical, or radio device or loudspeaker for the purpose of attracting the passing public, 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 way between the hours of 8:00 p.m. and 8:00 a.m. the following day.

~~C. To play, use or operate for advertising purposes or for any other purpose whatsoever, in public places or upon the public streets, alleys or thoroughfares in the Borough any device known as a sound truck, loudspeaker or sound amplifier, or radio or phonograph with a loudspeaker or sound amplifier, or any other instrument known as a calliope or any instrument of any kind which emits loud or raucous noises and is attached to and upon any vehicle operating or standing upon the streets or public places aforementioned.~~

C. Horns and signaling devices. To sound any horn or warning device on any automobile, motorcycle, bus or other vehicle, except when required by law or when necessary to give timely warning of the approach of the vehicle, as a warning of impending danger to persons driving other vehicles or to persons upon any public right-of-way. No person shall sound any horn or warning device on any automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound, or for any unreasonable period of time.

~~D. To sound any horn or warning device on any automobile, motorcycle, bus or other vehicle, except when required by law or when necessary to give timely warning of the approach of the vehicle, as a warning of impending danger to persons driving other vehicles or to persons upon the streets. No person shall sound any horn or warning device on any automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound, or for any unreasonable period of time.~~

D. *Powered model vehicles.* Operating or permitting the operation of powered model vehicles between the hours of 10:00 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 § 310-5 and shall be measured at the property boundary of the source or at a distance of 100 feet, if it is operated in a public place.

~~E. To play or operate any of the aforementioned devices between the hours of 10:00 p.m. and 8:00 a.m., the following day, in such a manner as to be plainly audible across real property boundaries or through partitions common to two parties within a building or plainly audible at 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.~~

E. *Other Noises.* To yell, shout, hoot, blow any whistle, or sing in the public streets, between the hours of 10:00 p.m. and 8:00 a.m., so as to annoy and disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity; except to give notice of the time to begin or to stop work or as warning of distress, fire or danger, or upon request of proper Borough authorities.

~~F. To yell, shout, hoot, whistle or sing in the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m., so as to annoy and disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity.~~

F. *Motor Vehicle Repair.* To use any automobile, motorcycle, off-road vehicle, or motor boat, so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling, engine, or other noise.

~~G. To blow any locomotive whistle or whistle attached to any stationary boiler, except to give notice of the time to begin or to stop work or as warning of distress, fire or danger, or upon request of proper Borough authorities.~~

G. Loading operations. To create a noise disturbance in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates and containers, garbage cans, or otherwise similar objects between the hours of 6:00 p.m. and 8:00 a.m. the following day. This subsection shall not apply to Solid Waste and Recycling collection services provided by or contracted by the Borough of Bradley Beach.

~~H. To discharge into open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.~~

H. Construction noise Commercial or Private.

(1) Operating or causing to be operated any equipment used in construction, to erect (including excavation), repair, alter or demolish any buildings, structures, streets, alleys or appurtenances thereto, in residential or commercial land use categories shall be prohibited except during the following hours:

(a) On Monday through Friday from 8:00 a.m. to 6:00 p.m.

(b) On Saturday from 10:00 a.m. to 6:00 p.m. from October 1 until the Friday of Memorial Day weekend.

(2) No construction noise shall be permitted on any Holiday or Sunday through 8:00 a.m. of the following day.

(3) The official date of Holiday observance shall govern.

(4) This prohibition may be suspended in the event of an emergency.

~~I. To use any automobile, motorcycle or vehicle, so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.~~

I. Schools, Churches, Courts. To create any excessive or disturbing noise on any street adjacent to any school, institution of learning, church or court, provided that conspicuous signs are displayed in such streets indicating the proximity of such institutions.

~~J. To create a noise disturbance in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates and containers.~~

J. Peddlers, Vendors, Hawkers. The shouting or crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

~~K. To erect (including excavation), demolish, alter or repair any building, other than between the hours of 8:00 a. m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety; provided, however, that a permit therefor has been obtained from the building official. Such permit may be granted while the emergency continues for a period not to exceed three days and may be renewed for periods of three days or less.~~

K. *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 7:00 a.m. the following day in residential use districts. This subsection shall not apply to Solid Waste and Recycling removal services provided by or contracted by the Borough of Bradley Beach.

~~L. To create any excessive or disturbing noise on any street adjacent to any school, institution of learning, church or court, provided that conspicuous signs are displayed in such streets indicating the proximity of such institutions.~~

L. *Vehicle Repairs or Testing.* To repair, rebuild, modify or test 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 § 310-5.

~~M. The shouting or crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.~~

M. *Animals.* To own, keep, possess or harbor any animal or animals which, by frequent or habitual howling, barking, meowing, squawking, or other noisemaking, cause a noise disturbance. The provisions of this chapter shall also apply to all private or public facilities, including any animal pounds, which hold or treat animals.

~~N. To operate between the hours of 6:00 p.m. and 8:00 a.m. any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliances, the use of which is attended by loud or unusual noise.~~

N. *Public Entertainment Loudspeakers.* To operate, or permit to be operated, any mechanical device, loudspeaker, or other source of sound in any place of public entertainment, 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 way between the hours of 10:00 p.m. and 8:00 a.m. the following day.

~~O. To operate any blower, fan or internal combustion engine resulting in noise from the explosion of operating gases or fluids, unless such blower, fan or engine is equipped with a sound deadening muffler.~~

O. *Standing Motor Vehicles.* To operate or permit the operation of the motor of any motor vehicle whose manufacturer's gross weight is in excess of 10,000 pounds or any attached auxiliary equipment for a period longer than three minutes in any hour while such vehicle is stationary on a public right-of-way in a residential district or in any designated quiet zone, or is on private property in a residential or commercial zone and is not within a completely enclosed structure.

~~P. To operate or cause to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, in residential or commercial land use categories, between the hours of 6:00 p.m. and 8:00 a.m. the following day on weekdays, between 6:00 p.m. Saturday night and 8:00 a.m. Monday morning and on legal holidays.~~

P. *Bells and Alarms.* To sound or permit the sounding of any exterior burglar alarm on any building or motor vehicle unless such burglar alarm shall terminate its operation within 15 minutes of its being activated.

~~Q. To repair, rebuild, modify or test 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 § 310-5.~~

Q. *Power Tools.* Operation, or permitting to be operated, any powered saw sander, drill, grinder, leaf-blowing, garden and landscaping, power-washing, and hardscaping equipment or tools of like nature, used primarily for domestic purposes, outdoors in residential zones shall be prohibited except during the following hours:

(a) On Monday through Friday from 8:00 a.m. to 6:00 p.m.

(b) On Saturday and Sunday from 10:00 a.m. to 5:00 p.m.

~~R. To own, keep, possess or harbor any animal or animals or bird or birds which, by frequent or habitual howling, barking, meowing, squawking, or other noisemaking, cause a noise disturbance.~~

R. Recreational Activities and Sports Games. To play and/or participate in any game of basketball, softball, stickball, street hockey or other such activity on any public right-of-way and/or public space in the Borough between the hours of 10:00 p.m. and 8:00 a.m. the following day, so as to annoy and disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity.

~~S. To operate, or permit to be operated, any loudspeaker or other source of sound in any place of public entertainment which produces maximum levels of 90 dB(A) at any point that is normally occupied by a human being as read with the slow response on a sound level meter.~~

S. Tree Service Noise – Commercial or Private.

(1) Operation of tree removal, trimming, cutting, grinding or similar powered equipment shall be prohibited except during the following hours:

(a) On Monday through Friday from 8:00 a.m. to 6:00 p.m.

(b) On Saturday from 10:00 a.m. to 6:00 p.m. from October 1 until the Friday of Memorial Day weekend.

(2) No operation of tree removal trimming, cutting, grinding or similar powered equipment shall be permitted on any Holiday or Sunday through 8:00 a.m. of the following day.

(3) The official date of Holiday observance shall govern.

(4) This prohibition may be suspended in the event of an emergency.

~~T. To operate or permit 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 § 310-5 and shall be measured at the property boundary of the source or at a distance of 100 feet, if it is operated in a public place.~~

T. To possess, use, or explode any fireworks, including any blank cartridge, toy pistol, toy cannon, or toy gun in which more than 0.25 grain per cap of explosives are used; firecrackers; rockets, Roman candles, bombs, or other fireworks of like construction, or any fireworks containing any explosive or flammable compound for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, except aviation and railroad signal light flares, or sparkling devices, or novelties as defined in N.J.S.A. 21:2-2 if the person is 16 years of age or older. This subsection shall not apply to the Borough or any other person holding a valid permit in compliance with the Fireworks Regulation Law, N.J.S.A. 21:2-1 et seq.

- ~~U. To operate or permit the operation of the motor of any motor vehicle whose manufacturer's gross weight is in excess of 10,000 pounds or any attached auxiliary equipment for a period longer than three minutes in any hour while such vehicle is stationary on a public right of way in a residential district or in any designated quiet zone, or is on private property in a residential or commercial zone and is not within a completely enclosed structure.~~
- ~~V. To sound or permit the sounding of any exterior burglar alarm on any building or motor vehicle unless such burglar alarm shall terminate its operation within 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.~~
- ~~W. To operate, or permit to be operated, any powered saw sander, drill, grinder, garden equipment or tools of like nature, used primarily for domestic purposes, outdoors in residential zones between the hours of 8:00 p.m. and 8:00 a.m. the following day.~~
- ~~X. To play and/or participate in any game of basketball, softball, stickball, street hockey or other such activity on any public right of way and/or public space in the Borough between the hours of 10:00 p.m. and 8:00 a.m. the following day, so as to annoy and disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity.~~

§ 310-4 Exceptions for emergencies.

An exception is made for states of emergencies declared by any level of government when any of the aforementioned prohibited activities may need to be performed as a result of the emergency. Furthermore, noise ~~Noise~~ caused in the performance of emergency work for the immediate safety, health or welfare of the community or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this chapter. Nothing in this chapter 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.

§ 310-5 Noise levels by land use; 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 land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

Table I

Receiving Land Use Category	Time	Sound-Pressure Level Limit dB(A)
All residential zones and Residential Beachfront Zone	8:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 8:00 a.m.	50
General Business Zone; Office-Professional Zone; and Business, Office and Research Zone	At all times	65

§ 310-6 Maximum permissible noise levels of vehicles on public rights-of-way.

- A. No person shall operate a motor vehicle on a public right-of-way at any time in such 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 § 310-6. This section shall apply to all motor vehicles, whether publicly or privately owned, that are duly licensed.

Table II

Vehicle Class	Speed Limit 35 mph or less	Speed Limit Over 35 mph
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	96
Motorcycles	88	92
Any other motor vehicles and any combination of vehicles towed by such motor vehicle	82	88

- B. For the purpose of § 310-6, standard measurement height shall be four feet (1.2 meters) and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be 50 feet (15 meters). Whenever it is not feasible to use 50 feet, the distance may be shortened to 25 feet (7.5 meters), in which case the values in Table II of § 310-6 be increased by six dB(A).

§ 310-7 Maximum permissible noise levels of 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 manner that the sound-pressure level emitted therefrom exceeds the limits set forth in Table III when measured at the locations set forth in § 310-7. 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 dB(A)
Motorboat	86
All other vehicles	83

§ 310-8 Sound devices on boardwalk, beaches and streets.

It shall be unlawful for anyone to operate, play or permit the operation of any radio, phonograph, tape or cassette player, television, musical instrument, loudspeaker or amplifier or any other machine or device for the electronic or stereophonic production or reproduction of sound on the boardwalk, beaches and streets unless the person operating said device is using earphones which restrict the sound emanating from said device to the hearing of the operator only.

§ 310-9 Enforcement.

- A. It shall be the duty and responsibility of the Police Department of the Borough of Bradley Beach to enforce the provisions of this chapter.
- B. Violation of this chapter shall be cause for 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-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 to abate said violation of this chapter. Failure to comply with the order so issued and served shall constitute a violation of this chapter.

§ 310-10 Inspections; studies; records.

In order to implement the purposes of this chapter, the Police Department of the Borough of Bradley Beach shall have power to:

- A. Conduct, or cause to be conducted, studies, research, and monitoring related to noise.
- B. 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. For reasonable cause and upon presentation of proper credentials, enter any building, property, premises or places and inspect any noise source for the purpose of ascertaining the compliance or noncompliance with any provisions of this chapter, or have access to and require the production of books and papers pertinent to any matter under investigation.
- D. Require the owner or operator of any noise source to establish and maintain records and make such reports as the Police Department may reasonably prescribe.
- E. 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 may reasonably prescribe.

§ 310-11 Violations and penalties.

Any person, as defined in this chapter, who shall be found guilty of violating any provision of this chapter shall, for each offense, be fined a sum of not less than \$100 nor more than the maximum penalty set forth in Chapter 1, Article II, General Penalty, or both, in the discretion of the court hearing the complaint. Each day of such violation's continuance shall be considered a separate offense and shall be separately punishable.

§ 310-12 Other enforcement remedies.

- A. The operation or maintenance of any noise source in violation of any provision of this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction, or in any other manner available for the abatement of public nuisances.
- B. Any remedy available pursuant to this chapter shall be considered separate and not exclusive of any other remedy available hereunder.

C. Nothing in this chapter 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 chapter.

SECTION 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This Ordinance shall take effect upon adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.

ERICA KOSTYZ
Borough Clerk

LARRY FOX
Mayor

Introduced: June 28, 2023

Date of Hearing and Adoption: July 12, 2023