

Mr. Caizza offered the following ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

O-09-02

**AN ORDINANCE AMENDING CHAPTER 3-2 NOISE,
OF THE CODE OF THE BOROUGH OF HIGHLANDS**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands that the following shall replace the current Noise Ordinance in Chapter 3-2 and 3-2A:

Section 3-2.1. Exceptions.

The within prohibitions shall not apply to any public works projects for construction deemed to be in the public's welfare, safety and for the public good and only with prior approval from the Mayor and Council.

Schools; Courts; Churches; Hospitals. The creation of excessive noise on a street adjacent to a school, institution of learning, church or court while in use or adjacent to a hospital, which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital or court street.

Nothing herein contained shall be construed to apply to:

- A. The use of bells, chimes or sound amplifiers by churches engaged in church activities.
- B. Activities of municipal departments in the performance of their duties, drills or public demonstrations.
- C. Activities in public parks, playgrounds or public buildings under permission or authority of borough officials.
- D. The playing by a band or orchestra in a hall or building or in the open air, where duly authorized.

Section 3-2.2. Prohibited Noise.

- A. The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited.

No person shall permit any noise to emanate from any speaker, vehicle or instrument, whether natural or artificial, or use amplification or sound system equipment inside or outside a fully enclosed principal dwelling on a property in the Borough of Highlands such that the noise created thereby is plainly audible at a distance of 100 feet from the boundary line of such property.

When an officer can hear plainly audible music or other noise 100 feet beyond the property line of the noise-generating property, or any unreasonably, disturbing or unnecessary noise, there is a violation of this chapter.

The following activities, among others, are declared unreasonably loud, disturbing and unnecessary noise in violation of this chapter, but said enumeration shall not be deemed to exclude those not included herein:

- (1) The sounding of a horn or signaling device on an automobile, motorcycle or other motorized vehicle, except as a warning of danger, and then only for such period of time as is reasonably necessary for giving such warning.
- (2) The playing, using, operating or permitting to be played, used or operated of any electronic receiving set, musical instrument, phonograph or machine or device for the production or reproduction of sound with louder amplified volume than is necessary for the normal sensitive hearing of the person so playing, using or operating such instrument or device and such persons who are voluntary listeners thereto or in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants.
- (3) The use, operation or playing of any loudspeakers, amplifiers or other machines or devices for the producing of sound which is cast upon a public street for the purpose of commercial advertising or attracting the attention of the public.
- (4) The keeping of any animal or bird which by causing frequent or long-continued noise, such as barking or jabbering, shall disturb the peace, quiet and comfort of neighboring inhabitants.
- (5) Creating an audible noise by landscape and erection, excavation, demolition, alteration or repair of any building other than between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 6:00 p.m. on Saturday and Sunday, except in the case or urgent matters and the interest of public safety and health.
- (6) The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited, especially between the hours of 8:00 p.m. and 8:00 a.m. on Sunday Monday, Tuesday, Wednesday and Thursday, and 10:00 p.m. and 8:00 a.m. on Friday and Saturday. Consequently, no person shall permit any noise to emanate from any source or instrument whether natural or artificial, or use equipment outside a fully enclosed principal dwelling on a property in the Borough of Highlands such that the noise created thereby is plainly audible, as defined in section "B" hereinafter, at a distance of 100 feet from the property line.

B. "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 live entertainment or a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic base component of the music is sufficient to verify plainly audible sound. The law enforcement officer need not determine the title, specific words or the artist performing the song.

Section 3-2.3. Enumeration of noises.

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

- A. The playing of any radio, phonograph or any musical instrument or instruments or singing or talking in such a manner or in such volume as to annoy or disturb the quiet, comfort, repose, peace or tranquility of persons in any dwelling, hotel or other type residence or structure.
- B. The playing of music outdoors, either live or recorded, after 8:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, and after 10:00 p.m. on Friday and Saturday is hereby prohibited.
- C. The 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.
- D. The shouting of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.
- E. The sound of any horn or signal device on any automobile or other vehicle, while not in motion or occupied, as well as any structure, for any unnecessary or unreasonable period of time, except as a danger signal.

Section 3-2.4. Violations and Penalties.

A. Any person found guilty of violating any of the foregoing provisions concerning unnecessary noise shall be subject to a fine not to exceed \$100 for an initial violation. For a second violation, the fine shall not exceed \$250. For a third violation, the fine shall not exceed \$350. For a fourth violation, the fine shall be \$350, but not to exceed \$500. For a fifth violation, the fine shall be \$500 but not to exceed \$1,000. For a sixth violation, the fine shall be \$5,000 as well as for any violation thereafter. Additionally, when an offender is found to be a repetitious offender, the offender shall be subject to not more than 30 days imprisonment in

the county jail for each subsequent offense. A repeat offender shall be defined by an individual who has violated the statute more than three times within a two-week period of time.

B. Each day that this chapter is violated shall constitute a separate offense.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

DATE: March 18, 2009

NINA LIGHT FLANNERY
Borough Clerk

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PH/Adoption: March 18, 2009

Publication:

I, _____ Clerk/Deputy Clerk do hereby certify this to be a true copy of Ordinance # O-09-02 as adopted by the Governing Body of the Borough on March 18, 2009.

BOROUGH CLERK/DEPUTY CLERK