CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY
ORDINANCE NO. 2021-4

ORDINANCE RESTRICTING NOISE BETWEEN THE HOURS OF 8:00 PM AND 10:00 AM

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the City of Union City (the "City") is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, the City has received complaints regarding excessive and unreasonable noises, which have become a nuisance to the residents of the City; and

WHEREAS, New Jersey Courts have approved municipal ordinances which regulate noise as a nuisance within a municipality; and

WHEREAS, the Mayor and Board of Commissioners seek to limit the hours in which music is permitted in exterior areas such as decks, porches and rooftops to prevent excessive sound that may jeopardize the health, welfare and safety of its citizens or degrade the quality of life within the City.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey, they being the Governing Body thereof, as follows:

Chapter 296 entitled "Peace and Good Order" Article IV entitled "Nuisances Prohibited" Section 296-12 of the Code of the City of Union City is hereby amended and replaced as follows:

SECTION ONE

Noise Prohibited.

It shall be unlawful for a person or entity to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. Specifically exempted hereunder is noise presumed not to be a nuisance pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. This ordinance mirrors the municipal nuisance ordinance which was reviewed and found to be enforceable by the New Jersey Superior Court, Appellate Division, in State v. Clarksburg Inn, 275 N.J. Super. 624 (App.Div.2005).

SECTION TWO

Definition of Noise.

Without intending to limit the generality of Subsection 1 of this Section, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this Section:

a. *Radios; Televisions; Phonographs.* The playing, use or operation of any radio receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners. The operation of such a set, instrument, phonograph, machine or device so that it is clearly audible at a distance of one hundred (100') feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

    a. In accordance with Subsection 1 of this Section, music played outdoors at any time may rise to the level of a nuisance, however, the playing of music outdoors is explicitly prohibited between the hours of 8:00 pm and 10:00 am.

b. *Yelling; Shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 8:00 p.m. and 10:00 a.m., or at any time or place, which annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.

c. *Animals; Birds.* The keeping of animals or birds which, by causing frequent or long-continued noise, disturbs the comfort or repose of any person in the vicinity; but nothing herein contained is intended to apply to a dog pound or kennel licensed in accordance with Chapter 1 Article IV of this Code.

d. *Horns.* The sounding of a horn or warning device on an automobile, motorcycle, bus or other vehicle except when required by law, or when necessary to give timely warning of the approach of the vehicle, or as a warning of impending danger to persons driving other vehicles or to persons on the street. No person shall sound a horn or warning device on an automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound, or for an unnecessary or unreasonable period of time.

SECTION THREE

Violations and penalties.

A. Violation of any provision of this chapter shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, Health Officer, or any member of the general public who is affected by excessive noise.

B. Violation of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article IV, General Penalty, except that with each violation there shall be a minimum fine of two hundred fifty ($250.00) dollars payable through the Municipal Court Violations Bureau.

SECTION FOUR

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION FIVE

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION SIX

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION SEVEN

This Ordinance shall take effect upon passage and publication as required by law.

Commissioners	Yea	Nay	Abstain/Present	Absent
Lucio P. Fernandez				
Wendy A. Grullon				
Celin J. Valdivia				
Maryury A. Martinetti				
Mayor Brian P. Stack				

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on March 9, 2021 and will be further considered after a Public Hearing held on March 23, 2021.

INTRODUCED:

ADOPTED:

ATTEST:

Erin Knoedler
City Clerk

DATE