

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 014-2025**

**RE: AN ORDINANCE AMENDING CHAPTER 3, SECTION 17 (NOISE)  
OF THE MUNICIPAL CODE OF UPPER TOWNSHIP**

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**BE IT ORDAINED** by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

**SECTION 1.** Chapter 3, Section 17 of the Revised General Ordinance of the Township of Upper, also known as the Code of Upper Township, shall be replaced in its entirety with the following:

**§ 3-17. NOISE.**

**§ 3-17.1. Intent and Purpose.**

The intent of this section is to proscribe conduct which causes unreasonable or unnecessary noise, which the Township endeavors to prohibit so as to foster and protect the public health, comfort, safety, and welfare of its citizens. As a matter of legislative determination and public policy, the provisions, regulations, and prohibitions of this Chapter are enacted in pursuit of, and for the purpose of, promoting the comfort, peace, and quiet to which the residents of the Township of Upper shall be entitled.

**§ 3-17.2. Noise Prohibited.**

It shall be unlawful to make or cause to be made any unreasonable or unnecessary noise which does, or is likely to, annoy, disturb, injure, or endanger the comfort, repose, health, peace, and/or safety of others.

**§ 3-17.3. Determination of Unreasonable or Unnecessary Noise.**

In the enforcement of this section the following circumstances shall be weighed in determining whether noise is unreasonable or unnecessary in violation of this section:

1. Whether the noise is unreasonable or unnecessary in relation to any approved use or activity.
2. Whether the noise is unreasonable or unnecessary in relation to historical and customary uses or activities.
3. Whether the use or activity creating the noise is subject to any conditions imposed by any governmental authority (site plan approval, licensing approval, etc.) and whether any such conditions relate to the alleged noise violation.
4. The reasonableness of the conduct of the alleged violator.
5. The time of day that the noise occurred, as well as its intensity and duration.
6. The competing interests and the rights of the parties involved in the noise complaint and the alleged violation.

**§ 3-17.4. Restricted Uses and Activities.**

The following standards shall apply to the activities or sources of sound set forth below:

1. A commercial establishment from which loud noise emanates as a result of musical instruments, bands, mechanical music devices, and/or any sound reproduction device, live entertainment or patrons, from either the inside or any outside portion of such establishment, shall be in violation of this section whenever such noise is plainly

audible to the enforcing agent of this Chapter at a distance of one hundred (100') feet from the noise's point of origin between the hours of 10:00 p.m. and 8:00 a.m. the following day.

2. Commercial establishments, including but not limited to restaurants, from which loud noise emanates as a result of the operation of heating, venting, and air-conditioning motors and mechanical units and fans, or as a result of the operation of kitchen exhaust fans, or as a result of the operation of other mechanical equipment.
3. Power tools, home-maintenance tools, landscaping and/or yard-maintenance equipment, excluding emergency work, used by a residential property owner or tenant, shall not be operated before 7:00 a.m. or after 9:00 p.m., Monday through Saturday, or before 9:00 a.m. or after 6:00 p.m. on Sunday. All motorized equipment used in these activities shall be operated with a muffler and/or sound-reduction device consistent with the original manufacturer specifications for such motorized equipment.
4. Power tools, landscaping and/or yard-maintenance equipment used by nonresidential operators (i.e., commercial operators), excluding emergency work, shall not be operated on a residential, commercial, or industrial property during the following hours:
  - a. Labor Day through Memorial Day (exclusive): Monday through Saturday, all zones: before 7:00 a.m. or after 7:00 p.m.; Sunday, all zones: before 9:00 a.m. or after 6:00 p.m.
  - b. Memorial Day through Labor Day (inclusive): Monday through Saturday, Resort Residential (RR) and Resort Commercial (RC) Zones: before 8:00 a.m. or after 6:00 p.m.; Monday through Saturday, all zones except RR and RC: before 7:00 a.m. or after 9:00 p.m.; Sunday and official holidays, RR and RC Zones: no work is permitted; Sunday, all zones except RR and RC: before 9:00 a.m. or after 6:00 p.m.
  - c. All motorized equipment used in these activities shall be operated with a muffler and/or sound-reduction device consistent with the manufacturer specifications for such motorized equipment.
5. All construction and demolition activity within the Township of Upper, excluding emergency work, roadway work authorized by the Township, the New Jersey Department of Transportation or the County of Cape May, or beach fill operations authorized by the U.S. Army Corps of Engineers or New Jersey Department of Environmental Protection, shall not be performed during the following hours:
  - a. Monday through Friday, all zones: before 7:00 a.m. or after 9:00 p.m.; Saturday & Sunday, in all zones aside from the Resort Residential (RR) and Resort Commercial (RC) Zoning Districts, before 9:00 a.m. or after 6:00 p.m.
  - b. Between Memorial Day and Labor Day (inclusive), no construction work shall be permitted in the Resort Residential (RR) and Resort Commercial (RC) Zoning Districts on Saturdays or Sundays. Between Labor Day and Memorial Day (exclusive), construction work shall be permitted to be performed in the Resort Residential (RR) and Resort Commercial (RC) Zoning Districts on Saturdays between the hours of 9:00 a.m. and 6:00 p.m. No construction work shall be permitted in the RR and/or RC Zoning Districts on Sundays.
  - c. No construction work shall be permitted in the Resort Residential (RR) and Resort Commercial (RC) Zoning Districts on federally recognized holidays.

- 1) All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound-reduction device consistent with the manufacturer specifications for such motorized equipment. The Township Committee may authorize construction and demolition activities outside of the normally permitted hours subject to such conditions as may be imposed by the Township Committee.
- 2) The Township Code Enforcement Official may authorize work outside of the hours set forth above in exceptional circumstances, in the sole discretion of the Code Enforcement Official.
6. Collection of solid waste and/or recycling shall not be performed between the hours of 6:00 p.m. and 6:00 a.m.
7. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, bus, truck, or other vehicle on any street, road, and/or public or private place, except as a warning pursuant to the provisions of N.J.S.A. 39:3-69, or any whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is held up for any reason.
8. Radio and television sets, phonographs, etc. The use of radio or television receiving sets, musical instruments, phonographs, or any other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or, at any time, with volume louder than is necessary for the convenient hearing of the person or persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of 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 to the enforcing agent at a distance of one hundred (100') feet from the building, structure, or vehicle in which it is located or, in the case of such instruments operated in the open, at a distance of one hundred (100') feet from the location of the instrument shall create a rebuttable presumption of a violation of this section.
9. Loudspeakers, amplifiers for advertising. The use of any radio receiving set, musical instrument, phonograph, loudspeakers, sound amplifier, or other machine or device for producing or reproducing sound which is cast upon the public streets for the purpose of commercial advertising.
10. Hawkers, Peddlers. The shouting and/or crying of peddlers, hawkers, and vendors which disturbs the peace and quiet enjoyment of the neighborhood, except as is otherwise permitted by permit issued by the Township of Upper.
11. Schools, Courts, Churches. The creation of any unreasonable noise adjacent to any school, institution of learning, house of worship, or judicial court, while same is in use, provided that conspicuous signs are displayed on the adjacent streets which indicate that the same is a school, church, or judicial court.
12. Drums and Bells. The use of any drum, bell, horn, loudspeaker, or other instrument or device for the purpose of attracting attention to any performance, show, or the sale and/or display of merchandise by any creation of noise or sound.
13. Mobile Loudspeakers. The use of mechanical loudspeakers or amplifiers on vehicles or aircraft for commercial advertising purposes.
14. Yelling, Shouting, and the like on Public Streets. Yelling, shouting, hooting, whistling, or singing on the public streets at any time or place so as to annoy or disturb 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.
15. Yelling, Shouting, and the like in Private Residences. Yelling, shouting, hooting, whistling, or singing in private residences or places in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants. Yelling, shouting, hooting, whistling, or singing in private residences or places between the hours of 10:00 p.m.

and 8:00 a.m. in such a manner to be plainly audible to the enforcing agent at a distance of one hundred (100') feet from the private residence or place shall create a rebuttable presumption of a violation of this section.

16. Loading and Unloading. The loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, or other similar objects or the pumped loading or unloading of bulk materials or the pickup or compacting of refuse by persons engaged in the business of garbage collection whether private or municipal between the hours of 6:00 p.m. and 6:00 a.m.

### **§ 3-17.5 Exceptions.**

The prohibitions contained in this Chapter shall not apply to persons:

1. Who are engaged in the performance of any public or governmental function, such as the sounding of a church or school bell or police, fire, ambulance, air raid, or other like disaster warning, alert or alarm, whether such alarm is for an actual emergency purpose or for practice or drilling purposes;
2. Who are engaged in a religious, charitable, recreational, civic, or political activity by means of a sound truck or other amplifying device for non-profit purposes, provided that such person(s) shall have first obtained from the Township of Upper, upon written application, setting forth the sponsorship date, hours, and routes of such activity. The Township Committee shall not issue such a permit unless, having first considered the date, time, and route, it shall determine that the noise created by such activity shall not cause undue discomfort to the public;
3. Who are engaged in any activity specifically permitted or required by any ordinance, resolution, statute, or governmental regulation; and
4. Persons employed by public utility companies engaged in emergency repair services between the hours of 6:00 p.m. and 8:00 a.m.; provided, however, that such noise does not exceed levels that are reasonably necessary to accomplish such work.

### **§ 3-17.6 Enforcement.**

Enforcement of this Chapter shall be the responsibility of the Township of Upper Code Enforcement Office during normal business hours. For any complaints that occur outside of normal operating hours of the Township of Upper, the Cape May County Board of Health and/or the New Jersey State Police (NJSP) shall be the enforcement agents of this Chapter. All complaints of violations under this Chapter shall be directed to the appropriate agency referenced herein.

### **§ 3-17.7 Violations & Penalties.**

Any person who shall violate any of the provisions of this Chapter or any order promulgated hereunder shall, upon conviction, be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both a monetary fine and imprisonment. Each violation of any of the provisions of this Chapter and each day that the violation continues shall be deemed to be a separate and distinct offense.

**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4: SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**SECTION 5: CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

ATTEST:

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JOANNE R. HERRON, Township Clerk

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CURTIS T. CORSON, JR., Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 24<sup>TH</sup> DAY OF NOVEMBER, 2025 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 15<sup>TH</sup> DAY OF DECEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

Legislative History:

Introduced: November 24, 2025

Publication: November 29, 2025

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: December 15, 2025

Final Adoption: December 15, 2025

Final Publication Date: December 20, 2025

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on December 15, 2025 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on December 20, 2025.

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JOANNE R. HERRON, Township Clerk