

Chapter 193. Noise

[HISTORY: Adopted by the City Council of the City of Passaic as indicated in article histories. Amendments noted where applicable.]

Article I. Noise From Mobile Sources

[Adopted 7-11-1985 by Ord. No. 868-85^[1]]

[1] *Editor's Note: This ordinance superseded former Ch. 193, Noise, Art. I, adopted 6-19-1975 by Ord. No. 297-75 as Section 3-3 of Chapter III of the Revised General Ordinances of the City of Passaic, 1975, as amended.*

§ 193-1. Policy; applicability.

- A. Whereas excessive sound is a serious hazard to the public health, welfare, safety and the quality of life; and
Whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and
Whereas the people have a right to and should be ensured an environment free from excessive sound;
Now, therefore, it is the policy of the City of Passaic to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.
- B. This article shall apply to the control of sound originating from mobile sources within the limits of the City of Passaic.

§ 193-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DECIBEL (db)

The practical unit of measurement for sound pressure level; the number of "decibels" of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated db.

EMERGENCY WORK

Any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electricity, telephone, sewer facilities and public transportation, removing fallen trees on public rights-of-way or abating life-threatening conditions.

GROSS VEHICLE WEIGHT RATING (GVWR)

The values specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the "gross combination weight rating (GCWR)," which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

MOTORCYCLE

An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to motor scooters, mopeds and minibikes.

MOTOR CARRIER VEHICLE ENGAGED IN INTERSTATE COMMERCE

Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

MOTOR VEHICLE

Any vehicle that is propelled or drawn on land by an engine or motor, such as but not limited to passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles.

MUFFLER

A sound dissipative device or system for abating the sound of escaping gases of an internal-combustion engine.

NOISE

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 throughout the state or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

NOISE CONTROL OFFICER

An officially designated employee of the municipality, of a group of municipalities or of the county, trained in the measurement of sound and empowered to issue a summons for violations of this article.

PERSON

Any individual, corporation, company, association, society, firm, partnership, joint-stock company, the state or any political subdivision, agency or instrumentality of the state.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is leased, owned or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon that are owned or controlled by a governmental entity.

REAL PROPERTY LINE

The imaginary line, including its vertical extension that separates one parcel of real property from another.

RECREATIONAL MOTORIZED VEHICLE

Any motor vehicle used off public roads for recreational purposes.

RESIDENTIAL AREA

A group of residential properties and the abutting public right-of-way and public spaces.

RESIDENTIAL PROPERTY

Any property used for human habitation.

SOUND LEVEL

The sound pressure level measured in decibels with a sound level meter set for A-weighting; "sound level" is expressed in db's.

SOUND LEVEL METER

An instrument used to measure sound level conforms to Type 1 or Type 2 standards as specified by ANSI Specification S1.4-1971.

§ 193-3. Administration of noise control program.

- A. The noise control program established by this article shall be administered by the Police Department.
- B. The Police Department shall be empowered to stop any motor vehicle, or motorcycle operated on a right-of-way or public space, reasonably suspected of violating any provision of this article.

- C. A person shall be qualified to be a noise control officer if the person has satisfactorily completed any of the following
 - (1) Community Noise - A Short Course, offered by the Department of Environmental Science of Cook College, Rutgers and the State University.
 - (2) Education or experience, or a combination thereof, certified as equivalent by the Department of Environmental Science.

§ 193-4. Maximum permissible sound levels.

- A. Motor vehicles and motorcycles on public rights-of-way. No person shall cause, suffer, allow or permit the operation of a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table I.

**Table I Maximum Permissible Sound Levels From
Motor Vehicles and Motorcycles
(Sound level in db's at 50 feet [15 meters]
from center line of vehicle travel)**

(Measured according to Department of Transportation,
Bureau of Motor Carrier Safety Regulations
for enforcement of Motor Carrier Noise
Emission Standards, Title 49, Code of
Federal Regulations, Chapter II, Part 325)

Vehicle Class	Speed Limit 35 mph or Less	Speed Limit over 35 mph	Stationary runup
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 pounds or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 pounds or more	86	90	---
Any motorcycle	82	86	---
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82	---

(Sound level on fast setting in db at 15 feet from the edge of the lane of vehicle travel.)

Vehicle Class	Speed Limit 35 mph or Less
Any motor vehicle or motorcycle with a GVWR less than 10,000 pounds	80

- B. Recreational motorized vehicles operating off public rights-of-way. No person shall operate or cause to be operated any recreational motorized vehicle in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table II at either a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space or at or across a real property line when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed or registered.

**Table II Maximum Permissible Sound Level for
Recreational Motorized Vehicles
Operated Off Public Rights-Of-Way**

Vehicle Type	Sound Level
Motorcycle	
Unit manufactured before 1975	86
Unit manufactured after 1975	84
Any other vehicle	
Unit manufactured before 1975	84
Unit manufactured after 1975	80

§ 193-5. Prohibited acts.

- A. Adequate mufflers.
- (1) No person shall cause, suffer, allow or permit the operation of any motor vehicle or motorcycle not equipped with the original muffler and other components or equivalent replacement in good working order and in constant operation, regardless of sound level produced.
 - (2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement any muffler or other exhaust component on a motor vehicle or motorcycle.
- B. Motor vehicle horns and signalling devices. The following acts and the causing thereof are declared to be in violation of this article:
[Added 3-20-1986 by Ord. No. 923-86]
- (1) The sounding of any horn or other auditory signaling device in any motor vehicle or motorcycle on any public right-of-way or public space, except as a warning of danger.
 - (2) The sounding of any horn or other auditory signaling device that produces a sound level in excess of 100 dBa at 25 feet (7.5 meters).
- C. Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period longer than three minutes in any hour while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet (46 meters) of a residential area between the hours of 8:00 p.m. and 8:00 a.m. the following day.
[Added 3-20-1986 by Ord. No. 923-86]
- D. Sound reproduction device. No person shall cause, suffer, allow or permit the operating or playing of any radio, tape player or similar device that reproduces or amplifies sound in such a manner as to create noise at 50 feet (15 meters) from such device, when operating in or on a motor vehicle on a public right-of-way or public space.

§ 193-6. Exceptions.

The provisions of this article shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, except as specified in § 193-5B.

§ 193-7. Enforcement; violations and penalties.

- A. Issuance of summons. Violation of any provision of this article shall be cause for a summons to be issued by the noise control officer.
- B. Revocation of summons. If a summons is given for violation of § 193-5A of this article, the summons may be revoked by the Police Department, if the offending vehicle's exhaust system is repaired within five days. The vehicle must be brought to the police station for an inspection of the exhaust system.
- C. Penalties.
- (1) Any person who violates any provision of this article shall be subject to a penalty for each offense not more than \$1,000.
 - (2) Any person who willfully or knowingly violates any provision of this article shall be subject to a penalty for each offense of a sum of not less than \$25 and not more than \$1,000.
- D. Other remedies. No provisions of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

Article II. Noise From Stationary Sources

[Adopted 7-11-1985 by Ord. No. 869-85^[1]]

[1] *Editor's Note: This ordinance superseded former Ch. 193, Noise, Art. II, adopted 11-6-1975 by Ord. No. 312-75, as adopted.*

§ 193-8. Policy; applicability.

- A. Whereas excessive sound is a serious hazard to the public health, welfare, safety and the quality of life; and Whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and Whereas the people have a right to and should be ensured an environment free from excessive sound; Now, therefore, it is the policy of the City of Passaic to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.
- B. This article shall apply to the control of sound originating from stationary sources within the limits of the City of Passaic.

§ 193-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMERCIAL AREA

A group of commercial facilities and the abutting public rights-of-way and public spaces.

COMMERCIAL FACILITY

Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- A. Banking and other financial institutions.
- B. Dining establishments.
- C. Establishments for providing retail services.
- D. Establishments for providing wholesale services.
- E. Establishments for recreation and entertainment.
- F. Office buildings.
- G. Transportation.
- H. Warehouses.

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

DECIBEL (db)

The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated db.

DEMOLITION

Any dismantling, intentional destruction or removal of buildings or structures.

EMERGENCY WORK

Any work or action necessary to deliver essential 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 or abating life-threatening conditions.

INDUSTRIAL FACILITY

Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.

MOTOR VEHICLE

Any vehicle that is propelled or drawn on land by an engine or motor.

MUFFLER

A sound dissipative device or system for abating the sound of escaping gases of an internal-combustion engine.

MULTIDWELLING UNIT BUILDING

Any building wherein there are two or more dwelling units.

NOISE

Any sound 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 throughout the state or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

NOISE CONTROL ADMINISTRATOR

The noise control officer designated as the official liaison with all municipal departments, empowered to grant permits for variances.

NOISE CONTROL OFFICER

An officially designated employee of the municipality, of a group of municipalities, or of the county, trained in the measurement of sound and empowered to issue a summons for violations of this article.

NOISE DISTURBANCE

Any sound that endangers the safety or health of any person or disturbs a reasonable person of normal sensitivities or endangers personal or real property.

PERSON

Any individual, corporation, company, association, society, firm, partnership, joint-stock company, the state or any political subdivision, agency or instrumentality of the state.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk or alley that is leased, owned or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

REAL PROPERTY LINE

Either the imaginary line, including its vertical extension, that separates one parcel of real property from another or the vertical and horizontal boundaries of a dwelling unit that is one in a multidwelling unit building.

RESIDENTIAL AREA

A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY

Property used for human habitation, including but not limited to:

- A. Private property used for human habitation.
- B. Commercial living accommodations and commercial property used for human habitation.
- C. Recreational and entertainment property used for human habitation.

- D. Community service property used for human habitation.

SOUND LEVEL

The sound pressure level measured in decibels with a sound level meter set for A-weighting; "sound level" is expressed in db's.

SOUND LEVEL METER

An instrument used to measure sound level and conforms to Type 1 or Type 2 standards as specified by ANSI Specifications S1.4-1971.

WEEKDAY

Any day, Monday through Friday, that is not a legal holiday.

§ 193-10. Administration by noise control officers and administrator.

- A. The provisions of this article shall be enforced by the noise control officers.
- B. The noise control administrator shall have the power to:
- (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable.
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control.
 - (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this article.
 - (4) Grant permits for variances according to the provisions of § 193-15, provided that the variances are consistent with regulations concerning noise control promulgated by the New Jersey Department of Environmental Protection, N.J.A.C. 7:29.
- C. The noise control administrator shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise which the airport owner may have the authority to control in its capacity as proprietor. The noise control administrator shall report on his/her efforts to the governing body.
- D. A person shall be qualified to be a noise control officer, if the person has satisfactorily completed any of the following:
- (1) Community Noise - A Short Course, offered by the Department of Environmental Science of Cook College, Rutgers and the State University.
 - (2) A program of tutoring and on-the-job training, offered by the New Jersey Department of Environmental Protection, Office of Noise Control, to its employees.
 - (3) Education or experience, or a combination thereof, certified by the above Department as equivalent to the provisions of Subsection D(1) or (2) of this section.
- E. Noise measurements made by noise control officers shall be taken according to procedures specified by N.J.A.C. 7:29B, except as provided in § 193-12A(1).

§ 193-11. Duties and responsibilities of other departments.

- A. All departments and agencies of the City of Passaic shall carry out their programs according to law and shall cooperate with the noise control administrator in the implementation and enforcement of this article.
- B. All departments charged with new projects or changes to existing projects that may result in the production of noise shall consult with the noise control administrator prior to the approval of such projects to ensure that such activities comply with the provisions of this article.

§ 193-12. Maximum permissible sound levels.

A. No person shall cause, suffer, allow or permit the operation of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the particular sound level limits set forth in Table I, when measured at or within the real property line of the receiving property, except as provided in § 193-12A(I).

(1) When measuring noise within a dwelling unit of a multidwelling unit building, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room.

(2) Table I.

**TABLE I Maximum Permissible Sound Levels
by Receiving Property Category, in db's**

Sound Source Property Category	Another Dwelling Within a Multi- dwelling Unit Building		Residential		Com- mercial All Times	Industrial All Times
	7:00 a.m. to 10:00 p.m.		10:00 p.m. to 7:00 a.m.			
	10:00 to 7:00 a.m.	7:00 a.m. to 10:00 p.m.	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.		
Any location within a multi- dwelling unit building	45	40	55	50	65	75
Residential				55	50	65
Commercial or public spaces or rights-of- way			65	50	65	75
Industrial			65	50	65	75

B. The following are exempt from the sound level limits of Table I:

(1) Noise from domestic power tools, lawn mowers and agricultural equipment when operated with a muffler between the hours of 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on weekends and legal holidays, provided that they produce less than 85 db's at or within any real property line of a residential property.

(2) Sound from church bells and church chimes when a part of a religious observance or service.

(3) Noise from construction activity, provided that all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in § 193-13B(6).

(4) Noise from snowblowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal.

(5) Noise from stationary emergency signaling devices that conforms with the provisions of N.J.A.C. 7:29.

(6) Noise from an exterior burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within 15 minutes after it has been activated.

§ 193-13. Prohibited acts.

[Amended 9-7-2010 by Ord. No. 1842-10]

A. No person shall cause, suffer, allow or permit to be made verbally or mechanically any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section.

B. No person shall cause, suffer, allow or permit the following acts:

- (1) Sound reproduction systems: operating, playing or permitting the operation or playing of any radio, television, phonograph or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device.
- (2) Loudspeakers and public address systems: using or operating of any loudspeaker, public address system or similar device, between the hours of 10:00 p.m. and 8:00 a.m. in the following day, such that the sound therefrom creates a noise disturbance across a residential real property line.
- (3) Animals and birds: owning, possessing or harboring any pet animal or pet bird that frequently or for continued duration makes sounds that create a noise disturbance across a residential real property line (for the purpose of this section, a "noise disturbance from a barking dog" shall be defined as that created by a dog barking continually for 10 minutes or intermittently for 30 minutes unless provoked).
- (4) Loading and unloading: loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse or similar objects or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder or pellet form or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between the hours of 8:00 p.m. and 6:00 a.m. the following day, when the latter is a weekday, and between the hours of 8:00 p.m. and 7:00 a.m. the following day, when the latter is a legal holiday or a weekend day, except by permit, when the sound therefrom creates a noise disturbance across a residential real property line.
- (5) Standing motor vehicles: operating or permitting the operation of any motor vehicle whose manufacturer's gross weight is in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way or public space within 150 feet (46 meters) of a residential area between the hours of 6:00 p.m. and 7:00 a.m. of the following day.
- (6) Construction and demolition: operating or permitting the operation of any tools or equipment used in construction, drilling, earthmoving, excavating or demolition work between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays, or at any time on weekends or legal holidays, provided that such equipment is equipped with a functioning muffler, except for emergency work, by variance issued pursuant to § 193-10 or when the sound level does not exceed any applicable limit specified in Table I.

§ 193-14. Exceptions.

- A. The provisions of this article shall not apply to:
 - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency, except as provided in § 193-12B(5) or (6);
 - (2) The emission of sound in the performance of emergency work; or
 - (3) The emission of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Act.
- B. Noise from municipally sponsored or approved celebrations or events shall be exempt from the provisions of this article.

§ 193-15. Application for variance.

- A. Any person who owns or operates any stationary noise source may apply to the noise control administrator for a variance from one or more of the provisions of this article. Applications for a permit of variance shall supply information, including but not limited to:
 - (1) The nature and location of the noise source for which such application is made.
 - (2) The reasons for which the permit of variance is requested, including the hardship that will result to the

applicant, his/her client or the public, if the permit of variance is not granted.

- (3) The nature and intensity of noise that will occur during the period of the variance.
 - (4) The section or sections of this article for which the permit of variance shall apply.
 - (5) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.
 - (6) A specific schedule of the noise control measures which shall be taken to bring the source into compliance with this article within a reasonable time.
- B. Failure to supply the information required by the noise control administrator shall be cause for rejection of the application.
- C. A copy of the permit of variance must be kept on file by the Municipal Clerk for public inspection.
- D. The noise control administrator may charge the applicant a fee of \$50 to cover expenses resulting from the processing of the permit of variance application.
- E. The noise control administrator may, at his/her discretion, limit the duration of the permit of variance, which shall be no longer than one year. Any person holding a permit of variance and requesting an extension of time shall apply for a new permit of variance under the provisions of this section.
- F. No variance shall be approved unless the applicant presents adequate proof that noise levels occurring during the period of the variance will not constitute a danger to public health; and compliance with the ordinance would impose an arbitrary or unreasonable hardship upon the applicant, without equal or greater benefits to the public.
- G. In making the determination on granting a variance, the noise control administrator shall consider:
- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property which is caused or threatened to be caused.
 - (2) The social and economic value of the activity for which the variance is sought.
 - (3) The ability of the applicant to apply best practical noise control measures.
- H. The permit of variance may be revoked by the noise control administrator if the terms of the permit of variance are violated.
- I. A variance may be revoked by the noise control administrator if there is:
- (1) Violation of one or more conditions of the variance;
 - (2) Material misrepresentation of fact in the variance application; or
 - (3) Material change in any of the circumstances relied upon by the noise control administrator in granting the variance.

§ 193-16. Enforcement; violations and penalties.

- A. Issuance of summons. Violation of any provision of this article shall be cause for a summons to be issued by the noise control officer.
- B. Abatement orders.
- (1) Except as provided in Subsection **B(2)**, in lieu of issuing a summons as provided in Subsection **A**, the noise control officer may issue an order requiring abatement of any source of sound alleged to be in violation of this article within a reasonable time period and according to guidelines which the noise control officer may prescribe.

- (2) An abatement order shall not be issued if any person willfully or knowingly violates any provision of this article or if the noise control officer has reason to believe that there will not be compliance with the abatement order.

C. Penalties.

- (1) Any person who violates any provision of this article shall be subject to a penalty for each offense of not more than \$1,000, except as provided in Subsection **C(2)**.
- (2) Any person who willfully or knowingly violates any provision of this article shall be subject to a penalty for each offense, a sum of not less than \$25 and not more than \$1,000.
- (3) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

- D. Other remedies. No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.