

## CHAPTER 3 NOISE CONTROL

Editor's Note: The Noise Control Ordinance codified in R.O. 1966 § 17:3-1 et seq. was repealed by Ord. 6 S+FH, 6-25-86, and replaced in its entirety by a new ordinance.

### 20:3-1. SHORT TITLE.

This Chapter may be cited as the "Noise Control Ordinance of the City of Newark." (Ord. 6 S+FG, 6-25-86 § 17:3A-1)

### 20:3-2. DEFINITIONS.

As used in this chapter, the following terms shall have the meanings described in this section. All terminology not defined below shall have the meaning described by the American National Standards Institute or its successor body.

A-weighted sound level shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A), or dBA.

Commercial operation shall mean any facility or property used for the purchase or utilization of goods, services, or land or its facilities, including but not limited to:

- a. Commercial Dining Establishments
- b. Noncommercial Vehicle Operations
- c. Retail Services
- d. Wholesale Services
- e. Banks and Office Buildings
- f. Recreation and Entertainment
- g. Community Services
- h. Public Services
- i. Other Commercial Services

Construction shall mean any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.

dBa shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network.

Decibel shall mean a unit for measuring the volume of a sound equal to twenty (20) times the logarithm to the base of ten (10) of the ratio of pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

Demolition shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Gross vehicle weight rating shall mean the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle.

Hospital quiet zone shall mean and includes any street within the City of Newark which is situated within five hundred (500) feet of a hospital boundary.

Impulsive sound shall mean sound of a short duration, usually less than one (1) second with an abrupt onset and rapid decay. Examples include explosions, drop-forge impacts and the discharge of firearms.

Industrial area shall mean any facility or property used for the following:

- a. Storage, warehouse or distribution, provided that the operation shall not be construed to be an industrial operation when it is part of a commercial motor vehicle operation.
- b. Property used for the production and fabrication of durable and nondurable manufactured goods.
- c. Activities carried out on the property.

Mobile source shall mean a motor vehicle, motorcycle or other vehicle which originates noise while in motion.

Motorcycle shall mean an unenclosed motor vehicle having a saddle for the use of the operator and two (2) or three (3) wheels in contact with the ground, including but not limited to motor scooters.

Motor vehicle shall mean any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go carts, amphibious craft on land, dune buggies or racing vehicles but not including motorcycles.

Muffler or sound dissipative device shall mean a device for abating the sound of escaping gases of an internal combustion engine.

Noise shall mean any sound which annoys or causes or tends to cause adverse psychological or physiological effects on humans.

Noise disturbance shall mean any sound which either endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

Person shall mean any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the State or any political subdivision of the State.

Public right-of-way shall mean any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.

Public space shall mean any real property or structures thereon which are owned or controlled by a governmental entity.

Pure tone shall mean any sound which can be distinctly heard as a single pitch or set of single pitches.

Real property boundary shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.

Residential property shall mean property used for human habitation, including but not limited to the following:

- a. Commercial living accommodations, commercial property used for human habitation.
- b. Recreational and entertainment property used for human habitation.
- c. Community service property used for human habitation.

Senior Citizen Quiet Zone shall mean and include any geographical area within the City of Newark adjacent to or contiguous with a senior citizen residential housing building or complex. The designation as a "Senior Citizen Quiet Zone" shall be determined by Ordinance of the Municipal Council and shall include a description of the area covered by the designation.

Sound shall mean an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity, or frequency.

Sound level shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications

for sound level meters (ANSI SI.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter shall mean 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 shall mean the instantaneous difference between actual pressure and the average barometric pressure at a given point in space, as produced by sound energy.

Sound pressure level shall mean twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure of twenty (20) micropascals ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

Unnecessary noise shall mean any noise which is avoidable, not absolutely needed and the elimination of which will not cause greater hardship than the noise itself.

Weekdays shall mean any day Monday through Friday which is not a legal holiday.  
(Ord. 6 S+FG, 6-25-86 § 17:3A-2; Ord. 6 S+FC, 4-3-91)

### 20:3-3. GENERAL ADMINISTRATION PROVISIONS.

Except as otherwise provided in these Revised General Ordinances or by law, the provisions of this chapter shall be administered and enforced by the Directors of the Department of Health and Community Wellness, the Police Department, and the Department of Neighborhood and Recreational Services, or their duly authorized representative, herein referred to as the Directors. The Director of the Police Department shall administer and enforce provisions affecting or involving motor vehicles. (Ord. 6 S+FG, 6-25-86 § 17:3A-3; Ord. 6S+FE, 10-17-07; Ord. 6PSF-E, 8-6-14)

### 20:3-4. DUTIES AND RESPONSIBILITIES OF THE DIRECTORS.

In order to implement and enforce this chapter towards the goal of noise abatement and control, the Directors shall have, in addition to any other vested powers, the duty and responsibility to:

a. *Investigate and Pursue Violations.* In consonance with the provisions of this chapter, investigate and pursue possible violations of this chapter.

b. *Inspections.* Make whatever inspections are necessary for the enforcement of this chapter. Measure sound levels across real property lines and make any other tests necessary to determine compliance with this chapter. Upon presentation of proper credentials, enter and inspect any building or place be it either public or private property and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist.

c. *Coordination.* Share personnel and equipment, and coordinate efforts with the other two (2) Directors as required to best insure effective enforcement of this chapter.

d. *Delegation of Authority.* Delegate functions, where appropriate under this chapter, to personnel within their respective departments or to other agencies or departments.

e. *Contracts.* Enter into contracts, with the approval of the Municipal Council, for the provision of technical and enforcement services.

f. *Review Public and Private Projects.* Review public and private projects subject to mandatory review by the City, for compliance with this chapter.

g. *Special Exceptions and Variances.* Administer special exceptions and variances pursuant to Section 20:3-14.  
(Ord. 6 S+FG, 6-25-86 § 17:3A-4)

20:3-5. DUTIES AND RESPONSIBILITIES OF OTHER DEPARTMENTS.

All departments and agencies shall carry out their programs in a manner which furthers the policy of this chapter. (Ord. 6 S+FG, 6-25-86 § 17:3A-5)

20:3-6. NOISE MEASUREMENTS.

Noise measurements made for the enforcement of this chapter shall be taken in accordance with procedures specified by N.J.A.C. 7:29B. Such measurements shall be made by a person who is deemed qualified pursuant to N.J.A.C. 7:29B. (Ord. 6 S+FG, 6-25-86 § 17:3A-6)

20:3-7. MAXIMUM PERMISSIBLE SOUND LEVELS.

No person shall cause, suffer, allow, or permit the operation of any source of sound on a particular category of property 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 the real property line of the receiving property. (Ord. 6 S+FG, 6-25-86 § 17:3A-7)

Table I. Maximum Permissible Sound Levels by Receiving Property  
CATEGORY

Sound Source Property Category	Receiving Property Category				
	Residential 7:00 a.m. - 10:00 p.m.	Residential 10:00 p.m. - 7:00 a.m.	Commercial All Times	Industrial All Times	Hospital Quiet Zone All Times
Residential	55 dBA	50 dBA	65 dBA	75 dBA	50 dBA
Commercial	65 dBA	50 dBA	65 dBA	75 dBA	50 dBA
Industrial	65 dBA	50 dBA	65 dBA	75 dBA	50 dBA

(Ord. 6 S+FG, 6-25-86 § 17:3A-7; Ord. 6 S+FI, 5-1-91)

20:3-8. EXEMPTIONS.

The sound levels listed in Table I shall not apply to:

- a. Domestic power tools, lawn mowers, and agricultural equipment when operated with a muffler between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays.
- b. Church bells and church chimes.
- c. Noise from construction activity, except as provided in Section 20:3-13g.
- d. Noise from air conditioning and air handling devices, except as provided in Section 20:3-13l.
- e. Noise from snowblowers, snow throwers, and snow plows when operated with a muffler, for the purpose of snow removal.
- f. Noise from equipment operated for the removal of refuse and solid waste except as provided in Section 20:3-13k.
- g. *Noise from Motor Vehicles and Motorcycles.* The standards for these motor vehicles are set forth in Section 20:3-9.

(Ord. 6 S+FG, 6-25-86 § 17:3A-9; Ord. 6 S+FD, 12-22-87)

20:3-9. MOTOR VEHICLES AND MOTORCYCLES; LOUD OR UNNECESSARY NOISE PROHIBITED.

a. The making, creating or permitting of any unreasonably loud, disturbing or unnecessary noise from motor vehicles and motorcycles is hereby prohibited.

b. The making, creating or permitting of any noise of such character, intensity or duration from motor vehicles and motorcycles as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is hereby prohibited.

(Ord. 6 S+FG, 6-25-86 § 17:3A-9; Ord. 6 S+FD, 12-22-87; Ord. 6 S+FI, 5-1-91)

20:3-10. ADEQUATE MUFFLERS.

a. No person shall cause, suffer, allow or permit the operation of any motor vehicle or motorcycle not equipped with original muffler, or equivalent replacement in good working order and in constant operation;

b. 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 on a motor vehicle or motorcycle.

(Ord. 6 S+FG, 6-25-86 § 17:3A-10)

20:3-11. MOTOR VEHICLE HORNS AND SIGNALING DEVICES.

The following acts and the causing thereof are declared to be in violation of this chapter:

a. 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 or where the motor vehicle statutes of New Jersey require the sounding of such horn or signal device.

b. The sounding of any horn or other auditory signaling device in any motor vehicle or motorcycle that produces a sound level in excess of one hundred (100) dBA at twenty-five (25) feet (7.5 meters).

(Ord. 6 S+FG, 6-25-86 § 17:3A-11)

20:3-12. STANDING MOTOR VEHICLES.

No person shall operate or permit the operation of any vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than three (3) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space, or within one hundred fifty (150) feet of a residential area between the hours of 8:00 p.m. and 8:00 a.m. except for refuse collection as described in Section 20:3-13k. (Ord. 6 S+FG, 6-25-86 § 17:3A-12; Ord. 6 S+FD, 12-22-87)

20:3-13. PROHIBITED ACTS.

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

a. Creation of unnecessary noise, or a noise disturbance.

b. Operating, playing or permitting the operation or playing of any radio, television, phonograph, portable stereo device, tape recorder, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

1. In such a manner as to create unnecessary noise at fifty (50) feet from such a device when operated in public buildings, on public modes of transportation, on public streets or at any other public place or on a motor vehicle on a public right-of-way.

2. In such a manner as to create unnecessary noise for any person other than the operator of the device.

3. In such a manner as to create a sound level across a real property line, or through partitions common to two (2) or more persons within a building, that exceeds the applicable limit set forth in Table I.

c. 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. the following day, such that the sound therefrom creates unnecessary noise across a residential real property line. This provisions shall not apply to any public performance, gathering or parade for which a permit has been obtained from the City of Newark.

d. Offering for sale or selling anything by shouting or outcry within any residential or commercial area.

e. Animals; owning, possessing or harboring any animal or bird that frequently or for a continued duration makes sounds that create a noise disturbance across a residential real property line. For the purpose of this chapter, a dog barking continuously for ten (10) minutes or intermittently for thirty (30) minutes will constitute a noise disturbance.

f. Loading and unloading; loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, or similar objects between the hours of 10:00 p.m. and 6:00 a.m. the following day in such a manner as to exceed any applicable limit set forth in Table I.

g. Construction; operating or permitting the operation of tools or equipment used in construction, drilling, demolition, or similar work between the hours of 8:00 p.m. and 7:00 a.m. the following day on weekdays or Saturday and at any time on Sunday or legal holidays except for emergency work, or by special variance issued pursuant to this chapter, or when the resulting sound level does not exceed the applicable limit set in Table I.

h. Place of Public Entertainment or Business Establishment; operating, playing, or permitting the operation or playing of any radio, television, phonograph, tape or disc player, drum, musical instrument, sound amplifier, or similar device that produces, or amplifies sound in any place of public entertainment or business establishment whether commercial or industrial, whether inside the premises or on the street or sidewalk outside of any place of public entertainment or business establishment so as to exceed any applicable limit specified in Table I.

i. Explosives, Firearms, and Similar Devices; the use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property line or on a public space or right-of-way, without first obtaining a variance issued pursuant to Section 20:3-14.

j. Emergency Signaling Devices; the intentional sounding or permitting the sounding of any fire, burglar, civil defense, or other emergency signaling device, except for emergency or testing. Testing of any emergency signaling device shall take place at the same time of the day for each test and shall be performed between 9:00 a.m. and 9:00 p.m. and shall not exceed thirty (30) seconds. Provisions shall be made by the owner of an emergency signaling device for that device to be turned off in a timely manner after the signal has served its purpose of signaling an emergency. Emergency signaling devices shall be maintained in good repair to prevent repeated accidental alarms.

k. Sanitation and Refuse Collection; the operation of sanitation or refuse collection equipment between the hours of 8:00 p.m. and 6:00 a.m. on weekdays and Saturdays, and earlier than 8:00 a.m. on Sundays and legal holidays except for emergency work, or by variance issued pursuant to Section 20:3-14, or when the sound level resulting does not exceed any applicable limit set forth in Table I.

l. Air Conditioning and Air Handling Devices; the operation of air conditioning or air handling devices including heat pumps that produce a sound level greater than fifty-five (55) dBA at a real property line of a residential property, except when the operation produces less than a five (5) dBA increase in the sound level that exists in the absence of such sound.

m. Senior Citizen Quiet Zone; the creation of any unreasonably loud and unnecessary noise within any area designated as "Senior Citizen Quiet Zone" provided that notice is conspicuously displayed in adjacent or contiguous streets indicating that the area is a "Senior Citizen Quiet Zone." Noncommercial public speaking and public activities conducted on any public space or public right-of-way, adjacent or contiguous to the "Senior Citizen Quiet Zone," shall be exempt from the operation of this section between the hours of 7:00 a.m. and 8:00 p.m.

(Ord. 6 S+FS, 10-2-85; Ord. 6 S+FU, 12-18-85; Ord. 6 S+FG, 6-25-86 § 17:3A-13; Ord. 6 S+FD, 3-16-94)

#### 20:3-14. EXCEPTIONS AND VARIANCES.

a. *Emergency Exception.* The provisions of this chapter shall not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency.

2. The emission of sound in the performance of emergency work.

b. *Special Variances.*

1. The Directors shall have the authority, consistent with this chapter, to grant special variances which may be requested for good cause shown.

2. Any person seeking a special variance pursuant to this chapter shall file an application with the Directors. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the Directors containing any information to support his or her claim. If the Directors find that a sufficient controversy exists regarding an application, a public hearing may be held.

3. In determining whether to grant or deny the application, the Directors shall balance the hardship to the applicant, the community and other persons, the special health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impact in granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the Directors may reasonably require. In granting or denying an application, the Directors shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

4. Variances in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this chapter for which the variance was granted.

5. Application for extension of time limits specified in variances in time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under Section 20:3-14b; except that the Directors must find that the need for extension or modification clearly outweighs any adverse impact of granting the extension or modification.

6. The Directors may issue guidelines defining the procedures to be followed in applying for a variance in time to comply and the criteria to be considered in deciding whether to grant a variance.

c. *Sound Permits for Outdoor and Street Assemblage Purposes.* All requests for permits to utilize outdoor sound devices, i.e. loudspeaker, public address system or bullhorn shall be filed in the Office of the City Clerk on an application and form issued by the Office of the City Clerk. All applications must be submitted fifteen (15) calendar days prior to the assemblage and shall be reviewed as to the date(s), time and location(s) of the proposed assemblage which shall not be located within five hundred (500) feet of any public facility, school, hospital or entertainment venue, nor shall it impede the passage of persons or vehicles within the public right-of-way. Failure to submit an application fifteen (15) days prior to the assemblage shall result in a rejection of same and a new application must be filed complying with the fifteen (15) day requirement.

No outdoor sound device shall exceed the maximum sound level as prescribed in Section 20:3-7.

Using or operating any outdoor sound device as described herein for the purpose of outdoor and street assemblage shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m. the following day.

The provision of this section shall be administered by the Office of the City Clerk and said application shall be reviewed with recommendation by appropriate municipal department directors or his/her designee, including but not limited to, Police, Health and Community Wellness, Neighborhood and Recreational Services and Engineering for enforcement of appropriate municipal laws.

(Ord. 6 S+FG, 6-25-86 § 17:3A-14; Ord. 6 S+FD, 9-17-03 § 1; Ord. 6 S+FD, 4-21-04 § 1; Ord. 6 S+FE, 10-17-07; Ord. 6PSF-E, 8-6-14)

20:3-15. ENFORCEMENT.

This chapter shall be enforced by the Directors of the Department of Health and Community Wellness, the Department of Neighborhood and Recreational Services and the Police Department. Those provisions of this chapter

affecting motor vehicles shall be enforced solely by the Director of the Police Department. (Ord. 6 S+FG, 6-25-86 § 17:3A-15; Ord. 6 S+FE, 10-17-07; Ord. 6PSF-E, 8-6-14)

#### 20:3-16. NOTICE OF VIOLATION.

Violation of any provisions of this chapter shall be cause for a notice of violation to be issued by the Directors. (Ord. 6 S+FG, 6-25-86 § 17:3A-16)

#### 20:3-17. ABATEMENT ORDER; IMPOUNDMENT.

a. In conjunction with the issuance of a notice of violation the Directors shall issue an order requiring abatement of any source of sound alleged to be in violation of this chapter within a reasonable time period of not less than ten (10) days and no more than thirty (30) days for each separate offense and according to guidelines which the Directors may prescribe.

b. An abatement order shall not be issued:

1. For any willful or knowing violation of this chapter.

2. If the Directors have reason to believe that there will be no compliance with the abatement order.

c. Any motor vehicle found to be operated in violation of this chapter shall be impounded forthwith by the Police Department. The operator of the motor vehicle shall be issued a summons that shall inform him or her of the right to a hearing in regard to the violation of the chapter and in regard to the obligation to pay any towing and impoundment charges that accrue because of the violation.

If the operator of a motor vehicle demands a hearing in regard to the validity of the impoundment of his or her vehicle, the hearing shall be scheduled by the Municipal Court within seventy-two (72) hours of the written request for the hearing. If the Court finds that there was no probable cause to seize the vehicle, the Court shall order the release of the vehicle without charge to the defendant or owner of the vehicle.

d. Any person who violates Section 20:3-13b shall (1) have the noise producing equipment impounded by the Newark Police Department and (2) be subject to the issuance of a summons by the Newark Police mandating a court appearance by the violator in order to retrieve this equipment.

(Ord. 6 S+FG, 6-25-86 § 17:3A-17; Ord. 6 S+FL, 9-17-08 § 1)

#### 20:3-18. PENALTIES.

a. Any person who violates Section 20:3-13b shall be fined up to one hundred (\$100.00) dollars upon conviction.

b. Any person who violates any other provision of this chapter shall upon conviction be fined not more than one hundred (\$100.00) dollars for a first offense; not more than two hundred fifty (\$250.00) dollars for a second offense; not more than five hundred (\$500.00) dollars for a third or subsequent offense.

c. Any person who willfully or knowingly violates any provision of this chapter shall upon conviction be fined for each offense not less than two hundred fifty (\$250.00) dollars and not more than five hundred (\$500.00) dollars.

d. Each day of a violation of any provision of this chapter shall constitute a separate offense.

(Ord. 6 S+FG, 6-25-86 § 17:3A-18; Ord. 6 S+FL, 9-17-08 § 1)