

Chapter 261. Noise

[HISTORY: Adopted by the Board of Commissioners of the City of Union City by Ord. No. 3816-20 (§ 4-2 of the 1996 Revised General Ordinances), as amended through Ord. No. 1998-7. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Noise from arcades — See Ch. 64, Art. I.

Noise from entertainment venues — See Ch. 296, Art. III.

§ 261-1. Findings.

- A. Excessive noise is a serious hazard to the public health and welfare and the quality of life.
- B. A substantial body of science and technology exists by which excessive noise may be substantially abated.
- C. The public has a right to, and should be ensured, an environment free from excessive sound.

§ 261-2. Purpose.

It is the purpose of this chapter to prevent excessive sound which may jeopardize the health, welfare or safety of the residents of Union City or degrade the quality of life.

§ 261-3. Scope.

This chapter shall apply to the control of all sound originating within the limits of the City and shall be concurrent with like ordinances adopted by the Hudson Regional Health Commission.

§ 261-4. Definitions.

All terminology used in this chapter not defined below shall be defined and used in conformance with applicable publications of the American National Standards Institute (ANSI).

COMMERCIAL AREA

A group of commercial properties 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.

COMMUNITY SERVICE FACILITY

Any nonresidential facility used to provide service to the public, including but not limited to:

- A. Club meeting halls, offices and facilities.
- B. Organization offices and facilities.
- C. Facilities for the support and practice of religion.
- D. Private and parochial schools.

CONSTRUCTION

Any site preparation, assembly, erection, substantial repair, alteration or similar actions for or of public or private rights-of-way, structures, utilities or similar property, but excluding demolition.

CONTINUOUS AIRBORNE SOUND

Sound that is measured by the slow response setting of a sound level meter, in accordance with the provisions of N.J.A.C. 7:29-2.
[Amended 5-21-2013]

DBA

The measured sound level expressed in dB when using the A-weighted network of a sound level meter; the abbreviation designating the unit of sound level, as measured by a sound level meter using the A-weighting.

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 structures, utilities, public or private rights-of-way surfaces, or similar property.

EMERGENCY ENERGY RELEASE DEVICE

A device used specifically to release excess energy on a nonscheduled basis, as necessary, for purposes of safety.

EMERGENCY WORK

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

FREQUENCY

The number of sound pressure oscillations per second expressed in hertz, abbreviated "Hz."

INDUSTRIAL FACILITY

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

MOTOR VEHICLE

Any vehicle propelled otherwise than by muscular power, excepting such vehicles as run only upon rails, tracks or water, and not including motorcycles.

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, minibikes and mopeds.

MUFFLER

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

NOISE

Any airborne 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 county, 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 (NCO)

An officially designated employee of the City or a contracted individual, trained in the measurement of sound and empowered to issue a summons for violation of this chapter, in addition to the Police Department and other duly authorized personnel.

NOISE DISTURBANCE

Any sound which:

- A. Endangers or injures the safety or health of humans or animals; or
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

POLICE CHIEF

The Chief of the Union City Police Department.

POLICE DEPARTMENT

The Union City Police Department.

PUBLIC RIGHT-OF-WAY

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

PUBLIC SERVICE FACILITY

Any facility, and its related premises, property or equipment, used to provide governmental services to the public, including, but not limited to:

- A. Maintenance centers.
- B. Offices and buildings of agencies or instrumentalities of government.
- C. Schools.

- D. Waste collection centers.
- E. Waste recycling centers.
- F. Water and sewage facilities.

PUBLIC SPACE

Any real property or structure thereon which is owned, leased or controlled by a governmental entity.

REAL PROPERTY BOUNDARY

Any imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but excluding intrabuilding real property divisions.

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

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 characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL

The sound-pressure level measured in decibels with a sound-level meter set for A-weighting. Sound level is expressed in dBA.

SOUND-LEVEL METER

An instrument for the measurement of sound levels, as specified in N.J.A.C. 7:29-1.1 et seq., which provisions are incorporated herein by reference.
[Amended 5-21-2013]

STATIONARY EMERGENCY SIGNALING DEVICE

Any device, excluding those attached to motor vehicles, used to alert persons engaged in emergency operation. These include, but are not limited to, firefighters, first aid squad members and law enforcement officers, whether paid or volunteer.

VEHICLE REPAIR GARAGE/VEHICLE BODY SHOP

Any building, premises and land in which or upon which a business, service or industry involves the maintenance, servicing, repair, rebuilding or painting of vehicles is conducted or rendered. [Added 3-17-2009]

WEEKDAY

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

§ 261-5. Enforcement.

The City shall:

- A. Appoint and designate such personnel as it deems qualified to administer this chapter.
- B. Review the actions of all municipal departments and advise such departments of the effect, if any, of such actions on noise control.
- C. Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable.
- D. Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this chapter.
- E. Enter into contracts as the City deems necessary with outside agencies or other professionals for the provision of technical and enforcement services.
- F. Administer noise program grants and other funds and gifts from public and private sources, including the state and federal governments.
- G. Conduct, or cause to be conducted, research, monitoring and other studies related to sound.
- H. Conduct programs of public education regarding the cause, effects and general methods of abatement and control of noise, the actions prohibited by this chapter and the procedures for reporting violations.

§ 261-6. Variances.

The Police Chief shall have the authority to grant permits for variances in accordance with this chapter, provided that the variances are consistent with N.J.A.C. 7:29-1.1 et seq.

§ 261-7. Limited local jurisdiction.

The Police Department shall not use this chapter in situations within the jurisdiction of the Federal Occupational Safety and Health Act.

§ 261-8. Noise measurements.

[Amended 5-21-2013]

Noise measurements made by the Police Department, Noise Control Officer or other personnel or agency must be taken according to procedures specified by N.J.A.C. 7:29-1.1 et seq., which provisions are incorporated herein by reference.

§ 261-9. Inspections.

Upon presentation of proper credentials, the Police Department, Noise Control Officer or other authorized personnel may enter and inspect any private property or place and inspect any report or records at any reasonable time, when granted permission by the owner or 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 the Municipal Court or other court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

§ 261-10. Measurements by owner or operator.

After a clear violation has been determined by the Police Department, the Police Department may require the owner or operator or any commercial or industrial activity to measure the sound level from any source in accordance with the methods and the procedures, and at such location and times, as the Police Department may reasonably prescribe, and to furnish reports of the results of such measurements.

§ 261-11. Investigation of violations.

In consonance with other provisions of this chapter, the Police Department, or other duly authorized personnel, shall investigate and pursue possible violations of this chapter.

§ 261-12. Maps and plans to achieve quiet.

The City shall develop a generalized sound-level map of the City, a long-term plan for achieving quiet and, with the approval of the Mayor and Board of Commissioners, integrate this plan into the planning process of the City.

§ 261-13. Review of projects which may result in noise.

All departments charged with new projects or changes to existing projects that may result in the production of noise in violation of this chapter shall consult with the Police Department prior to the approval of such projects to ensure that such activities comply with the provisions of this chapter.

§ 261-14. Prohibited acts.

- A. No person shall unreasonably make, continue or cause to be made or continued, 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. Such activity shall not be exempt from the other provisions of this chapter unless so provided.
- B. Any noise disturbance caused, produced, made or continued in violation of the provisions of this chapter is hereby declared to be a nuisance and detrimental to public health.

§ 261-15. Specific prohibitions.

The following acts, and the causing thereof, are declared to be in violation of this chapter. Such enumeration shall not be deemed to be exclusive.

- A. 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.
- B. Using or operating any loudspeaker, public address system or similar device between the hours of 10:00 p.m. and 8:00 a.m. the following day, and any mechanical device used in the operation of a business between the hours of 10:00 p.m. and 7:00 a.m. the following day, in such a manner that the sound therefrom creates a noise disturbance across a residential real property line or within a noise sensitive zone.
- C. Operating tools and equipment.
 - (1) 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, except:

- (a) For emergency work.
 - (b) By special variance issued pursuant to this chapter.
 - (c) As allowed in § 261-16 below.
- (2) When used, such equipment shall be equipped with a proper muffler.
- D. The use of any air-conditioner unit on residential property between the hours of 10:00 p.m. and 7:00 a.m. which creates a noise exceeding 55 dBA across a residential real property line.
 - E. The operation of any motor vehicle or motorcycle not equipped with original muffler and other exhaust components or equivalent replacement in good working order and in constant operation regardless of the sound level produced.
 - F. The removal or rendering inoperative, or causing 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.
 - G. 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.
 - H. The sounding of any horn or other auditory signaling device that produces a sound level in excess of 100 dBA at 25 feet.
 - I. Operating or permitting the operation of any motor vehicle for a period 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 of a residential area, between the hours of 8:00 p.m. and 8:00 a.m. the following day.
 - J. Repairing, rebuilding, modifying or testing any motor or engine in such a manner as to exceed any applicable limit across a residential area property line.
 - K. Operating a vehicle repair garage or vehicle body shop between the hours of 8:00 p.m. and 8:00 a.m. of the following day, weekdays and weekends included. A vehicle repair garage shall be closed on Sundays.
[Added 3-17-2009; amended 5-21-2013]
 - L. Operating a car wash facility between the hours of 8:00 p.m. and 8:00 a.m. of the following day, weekdays and weekends included.
[Added 5-6-2014]

§ 261-16. Permissible sound levels.

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.

A. Table I.

Table I

Maximum Permissible A-Weighted Sound Pressure Levels by Receiving Property Category,
in dBA

Sound Source Property Category	Receiving Property Category			
	Residential	Commercial	Industrial	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	All Times	All Times
Residential	65	50	65	75
Commercial or industrial, public service or community service facility	65	50	65	75

B. Exemptions. The following are exempt from the A-weighted sound pressure 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 dBA at any real property line or residential property.
- (2) Sound from church bells and church chimes when a part of religious observance or service.
- (3) Noise from construction activity, except as provided in § 261-15C.
- (4) Airports, heliports and aircraft operations.
- (5) Noise from snowblowers, snow throwers and snowplows, when operated with a muffler, for the purpose of snow removal.
- (6) Noise from stationary emergency signaling devices that conforms with the provisions of N.J.A.C. 7:29-13, which provisions are incorporated herein by reference.
- (7) Noise from an exterior burglar alarm which terminates its operation within 15 minutes after it has been activated.
- (8) The unamplified human voice.
- (9) Interstate railway locomotives and cars.
- (10) Motor vehicles and motorcycles operating on public rights-of-way.
- (11) Air conditioners on residential property when measured across a residential real property line, except as provided in this chapter.
- (12) Source noise when it is equal to or less than the neighborhood residual noise by three dBA or less shall not be a cause to cite a violation, even if the source noise level exceeds those allowed in Table I.

§ 261-17. Exceptions.

The provisions of this chapter shall not apply to:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency, except as otherwise provided in this chapter.
- B. The emission of sound in the performance of emergency work.
- C. The emission of sound in situations governed by the provisions of the Federal Occupational Safety and Health Act.
- D. Noise from municipally sponsored or approved celebrations or events.

§ 261-18. Variances.

Any person who owns or operates any stationary noise source may apply to the Police Chief for variance from one or more of the provisions of this chapter.

- A. Applications. Applicants for a variance shall supply such information as may reasonably be required by the Police Chief, including, but not limited to:
 - (1) The nature and location of the facility or process for which such application is made.
 - (2) The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client or the public if the variance is not granted.
 - (3) The nature and intensity of the noise that will occur during the period of the variance.
 - (4) The provisions of this chapter to which the 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 chapter within a reasonable time.
- B. Approval; denial.
 - (1) No variance shall be approved unless the applicant presents adequate proof that:
 - (a) Noise levels occurring during the period of the variance will not constitute a danger to public health; and
 - (b) Compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefits to the public.
 - (2) Failure to supply the information required by the Police Chief shall be cause for rejection of the application.
 - (3) The variance shall be decided by the Noise Control Officer in conjunction with the Health Officer.
- C. Duration.
 - (1) No variance shall be issued for a period longer than one year. The Police Chief may, in his/her discretion, limit the duration of the variance.
 - (2) Any person holding a variance and requesting an extension of time may apply for a new variance under the provisions of this chapter.
- D. Revocation. The variance may be revoked by the Noise Control Administrator if there is:
 - (1) A violation of one or more conditions of the variance.
 - (2) A material misrepresentation of fact in the variance application.
 - (3) A material change in any of the circumstances relied upon by the Noise Control Administrator in granting the variance.
- E. Stay of prosecution. The variance shall operate as a stay of prosecution.

§ 261-19. Violation and penalties; abatement.

- A. Violation and penalties.
 - (1) Any person who violates any provision of this chapter shall be subject to the penalties set forth in Chapter 1, Article IV, General Penalty.
 - (2) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.
 - (3) Any person who violates more than one provision of this chapter shall be subject to the penalties set forth for each provision of this chapter violated as a separate and distinct offense.
- B. Abatement, in lieu of issuing a notice of violation, as provided for herein, the City may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter, within a reasonable time period, in accordance with the guidelines established herein.
- C. Enforcement. Except where a person is acting in good faith to comply with an abatement order, violation of any provision of this chapter shall be cause for a notice of violation or summons to be issued by the appropriate City agency, including, but not limited, to the Police and Health Departments, according to procedures which the City may prescribe.