

CHAPTER 634: NOISE CONTROL ORDINANCE OF THE CITY OF NEWARK

634.01 PURPOSE AND TITLE.

(a) The purpose of this chapter is to provide standards for the control of noise levels within the City. Such standards have been selected for the purpose of establishing sound levels which, under given circumstances, are considered a serious hazard to the public health, safety and welfare.

(b) This chapter may be cited as "The Noise Control Ordinance of the City of Newark."

(Ord. 84-42. Passed 7-16-84.)

634.02 DEFINITIONS.

As used in this chapter, all terminology shall be in conformity with applicable publications of the American National Standards Institute or its successor body, except that:

(1) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is denoted "dB(a)" or "dBA."

(2) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, excluding demolition, for or on public or private rights of way, structures, utilities or similar property.

(3) "Decibel (db)" means a unit for measuring the volume of a sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

(4) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

(5) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

(6) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(7) "Gross vehicle weight rating" means the value 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, which is the

value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(8) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

(9) "Retail area" means any area within the City zoned pursuant to the Zoning Code, as amended, in a land use category other than those categories that comprise residential areas as defined in subdivision (22) of this section.

(10) "Maliciously" means motivated by ill will toward a person while the person motivated is committing an act that violates any of the provisions of this chapter.

(11) "Motor vehicle" means every vehicle specified in Section [402.21](#) of the Traffic Code.

(12) "Motorcycle" means every motor vehicle specified in Section [402.20](#) of the Traffic Code.

(13) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

(14) "Noise" means any sound that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

(15) "Noise disturbance" means any sound that endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

(16) "Person" means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or a political subdivision of a state.

(17) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(18) "Powered model vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle not designated to carry persons including, but not limited to, any model airplane, boat, car or rocket.

(19) "Public right of way" means any street, avenue, boulevard, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

(20) "Public space" means any real property or structure thereon that is owned or controlled by a governmental entity.

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

(22) "Residential area" means any area within the City zoned R-S (Suburban Residence District), R-1 (Single-Family Residence District), R-2 (General Residence District) or R-3 (Multifamily residence District) pursuant to the Zoning Code, as amended.

(23) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted "Prms."

(24) "Sound" means 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.

(25) "Sound level" means 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 the American National Standards Institute specifications for sound level meters (ANSI S1.4-1971 or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(26) "Sound level meter" means an instrument, including any microphone, amplifier, RMS detector, integrator or time average, output meter or weighting network, used to measure sound pressure levels.

(27) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(28) "Sound pressure level" means twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty micropascals (20 x 10⁻⁶ N/m²). The sound pressure level is denoted "Lp" or "SPL" and is expressed in decibels.

(Ord. 84-42. Passed 7-16-84.)

634.03 NOISE DISTURBANCES PROHIBITED.

(a) No person shall unreasonably make, continue, cause to be made or continued or permit any noise disturbance.

Noncommercial public speaking and public assembly activities conducted on any public space or public right of way with a special variance issued by the Director of Public Safety shall be exempt from this section.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree for each subsequent offense. Whoever maliciously violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section [698.02](#).

(Ord. 84-42. Passed 7-16-84.)

634.04 SPECIFIC PROHIBITIONS.

(a) No person shall do, cause or permit any of the following:

(1) Animals and birds. Own, possess or harbor any animal or bird that frequently, or for continued duration, howls, barks, meows, squawks or makes other sounds that create a noise disturbance across a residential real property boundary;

(2) Places of public entertainment. Operate, play or permit the operation or playing of any radio, television, phonograph, drum or other musical instrument, sound amplifier or similar device that produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to cause a noise disturbance across residential areas between the hours of 10 P.M. and 7 A.M. of the following day, Sunday through Thursday and between the hours of 11 P.M. and 7 A.M. Friday and Saturday into the following day, unless issued a special variance by the Director of Public Safety.

A. Sound levels within the place of public entertainment greater than ninety-five dBA as read by the slow response on a sound level meter at any point at a place that is normally occupied by a customer are not permitted unless a conspicuous and legible sign is located outside such place near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT".

(3) Vehicle or motorboat repairs and testing. Repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary;

(4) Adequate mufflers or sound dissipative devices.

A. Operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation;

B. Remove or render inoperative or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle; or

C. Discharge into the open air the exhaust of any steam engine, stationary internal combustion engine or motorboat, except through a muffler or other device in good working order and in constant operation;

(5) Motor vehicles.

A. Operate or permit the operation of any motor vehicle with a gross vehicle weight rating in excess of 10,000 pounds or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, in such a manner as to create a noise disturbance, for reasons other than traffic congestion, between the hours of **10:00 p.m. and 7:00 a.m.** of the following day; or

B. Race the motor of any vehicle unnecessarily or operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or

started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the pavement or other surface, commonly called "Peeling";

(6) Loading and unloading. Load, unload, open, close or otherwise handle boxes , crates, containers, building materials, garbage cans or similar objects between the hours of **10:00 p.m. and 7:00 a.m.** of the following day in such a manner as to cause a noise disturbance across a residential real property boundary;

(7) Construction. Operate or permit the operation of any tools or equipment used in construction, drilling or demolition work between the hours of **10:00 p.m. and 7:00 a.m.** of the following day, such that the sound there from creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities or by special variance. This paragraph does not apply to the use of domestic power tools subject to subdivision (a)(11) of this section.

(8) Emergency signaling devices.

A. Intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in this subsection.

Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before **7:00 a.m. or after 10:00 p.m.** or the closing time of a commercial establishment, whichever occurs later. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds.

Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before **7:00 a.m. or after 10:00 p.m.** In no case shall such test time exceed ten minutes.

B. Sound or permit the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within two minutes of activation, or within a reasonable time after notification of activation; or

C. Sound any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger;

(9) Radios, television sets, musical instruments and similar devices. Operate, play or permit the operation or playing of any radio, television, phonograph, drum or other musical instrument, sound amplifier or similar device that produces, reproduces or amplifies sound:

A. Between the hours of **10:00 p.m. and 7:00 a.m.**, of the following day in such a manner as to create a noise disturbance across a residential real property boundary; or

- B. In such a manner as to create a noise disturbance at fifty feet (fifteen meters) from such device, when operated in or on a motor vehicle on a public right of way or public space;

(10) Loudspeakers and public address systems.

A. Use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of **10:00 p.m. and 7:00 a.m.** of the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary. Mobile sound vehicles amplifying noncommercial spoken language between **10:00 p.m. and 7:00 a.m.** of the following day shall be exempt from this subdivision with a special variance issued by the Director of Public Safety.

B. Use or operate for any commercial purpose any loudspeaker, public address system or similar device such that the sound therefrom between the hours of **10:00 p.m. and 7:00 a.m.** of the following day that creates a noise disturbance on a public right of way or public space;

(11) Domestic power tools. Operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device used outdoors, other than powered snow removal equipment, in residential areas between the hours of **10:00 p.m. and 7:00 a.m.** of the following day, so as to cause a noise disturbance across a residential real property boundary; or

(12) Powered model vehicles. Operate or permit the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of **10:00 p.m. and 7:00 a.m.** of the following day. During the permitted period of operation, maximum sound levels in a residential area shall not exceed sixty dBA measured at a distance of fifty feet from any point on the path of the vehicle.

(b) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree for each subsequent offense. Whoever maliciously violates any of the provisions of this section is guilty of a misdemeanor of the third degree. The penalty shall be as provided in Section [698.02](#). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 84-42. Passed 7-16-84.)

(Ord. 22-43. Passed 11-21-22.)

634.05 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE CATEGORY.

(a) Irrespective and independent of whether or not a source of sound constitutes a violation of any of the provisions of Section [634.04](#) and unless otherwise specified, no

person shall operate, cause to be operated or permit on private property any source of sound in such a manner as to create a sound level that exceeds the limits set forth in Table 1 for specific receiving land use categories, when measured at or within the property boundary of the receiving land use.

TABLE 1.
SOUND LEVELS BY RECEIVING LAND USE CATEGORY

Receiving Land Use Category	Time	Sound Level Limit (dBA)
Residential	7:00 a.m. to 10:00 p.m.	60
Residential	10:00 p.m. to 7:00 a.m. of the following day	50
Retail Area	At all times	70

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree for each subsequent offense. Whoever maliciously violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The penalty shall be as provided in Section [698.02](#).

(Ord. 84-42. Passed 7-16-84.)

(Ord. 22-43. Passed 11-21-22.)

634.06 EXCEPTIONS.

(a) The provisions of Sections [634.04](#) and [634.05](#) do not apply to organized school-related programs, activities or events, to Municipal-authorized parades or to Municipal-sanctioned concerts in public parks.

(b) The specific sound levels established by Section [634.05](#) do not apply to the following:

- (1) Activities covered by Sections [634.04](#)(a)(7), (8) and (11);
- (2) Refuse collection vehicles; and
- (3) Railway locomotives and railway cars.

(Ord. 84-42. Passed 7-16-84.)

634.07 IMMEDIATE THREATS TO HEALTH AND WELFARE.

(a) Irrespective and independent of whether or not a source of sound constitutes a violation of any of the provisions of Section [634.04](#), no person shall operate, cause to be operated or permit on public or private property any source of continuous and/or impulsive sound in such a manner as to create a sound level that exceeds the limits set forth in Table 2 or Table 3, when measured at a distance of fifty feet (or fifteen meters) from such source.

TABLE 2.
CONTINUOUS SOUND LEVELS POSING AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT FIFTY FEET OR FIFTEEN METERS)*

<u>Sound Level Limit (dBA)</u>	<u>Duration</u>
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

*Use equal energy time-intensity trade-off if level varies; find energy equivalent over twenty-four hours.

TABLE 3.
IMPULSIVE SOUND LEVELS POSING AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT FIFTY FEET OR FIFTEEN METERS)

<u>Sound Level Limit (dB)</u>	<u>Number of Repetitions Per Twenty-Four Hour Period</u>
145	1
135	10
125	100

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section [698.02](#).

(Ord. 84- 42. Passed 7-16- 84.)

634.08 INSPECTIONS.

Law enforcement officers may, in addition to any other authority vested in them, upon presentation of proper credentials, enter and inspect any private property or place and inspect any report of 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 a showing of probable cause to believe that a violation of any of the provisions of this chapter may exist. Such inspection may include administration of any necessary tests.

(Ord. 84-42. Passed 7-16-84.)

634.09 STOPPING AND TESTING OF MOTOR VEHICLES.

Law enforcement officers may, in addition to any other authority vested in them, stop and test any motor vehicle or motorcycle operated on a public right of way or public space, which vehicle or motorcycle is reasonably suspected of being in violation of any of the provisions of this chapter.

(Ord. 84-42. Passed 7-16-84.)

634.10 EMERGENCY EXCEPTIONS.

This chapter does not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.

(Ord. 84-42. Passed 7-16-84.)

634.11 SPECIAL VARIANCES.

(a) The Director of Public Safety may grant special variances in accordance with this section.

(b) Any person seeking a special variance pursuant to this section shall file an application with the Director of Public Safety no less than 60 days before the event for which the variance is sought. If the applicant is a business or venue with multiple events occurring during the year which are anticipated to require a variance, an application may contain multiple events as long as the reason for the request and the nature of the event is the same in each event. The application shall contain information that demonstrates that bringing the source of sound or activity, for which the special variance is requested, into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. The applicant must also consent to an onsite inspection of the venue in which the event is to be held if requested by the Director of Public Safety or his or her designee. Notice of an application for a special variance shall be published by the Director of Public Safety on the City of Newark website. Any individual who claims to be adversely affected by

allowance of the special variance may file a written statement with the Director containing any information to support his or her claim.

(c) In determining whether to grant or deny an application for a special variance, the Director shall balance the results of any onsite inspection, the hardship to the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of the persons affected, the adverse impact on property affected and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting such variances may be required to submit any information the Director may reasonably require. In granting or denying an application, the Director shall maintain a record for public inspection of the decision and the reasons therefor.

(d) Special variances shall be granted by notice to the applicant, containing all necessary conditions, including a time limit on the permitted activity. A special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any of the conditions of the special variance shall terminate the variance for that event and any other events contained in the variance request and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted including but not limited to chapter 648.04.

(e) Application for an extension of time limits specified in a special variance or for modification of other substantial conditions shall be treated as applications for initial special variances.

(f) The Director of Public Safety may issue guidelines, approved by resolution of Council, defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether or not to grant a special variance.

(g) The decision of the Director may be appealed by the person denied the special variance or by any person claiming to be adversely affected by allowance of the special variance. Such appeal shall be made to Council, and review by Council shall be de novo.

(h) Notice of application for a variance or an extension of a variance shall be given by the Director of Public Safety by publishing on the City of Newark website a written notice detailing the substance and content of such application and inviting any interested person to submit written statements and other information regarding the application. All fees assessed shall be paid by the applicant at the time of filing the application in accordance with a schedule of fees formulated by the Director of Public Safety and filed with the Clerk of Council.

(Ord. 84-42. Passed 7-16-84.)

(Ord. 22-43. Passed 11-21-22.)

634.12 OTHER REMEDIES.

No provision of this chapter 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 a violation of any of the provisions of this chapter or of other law.

(Ord. 84-42. Passed 7-16-84.)