

Article 3. NOISE (84-38)

15-4. Declarations of finding and policy; scope.

(a) The occurrence of loud noises in the City of Englewood constitutes a detriment to public health, comfort, safety, and welfare of the residents of the City of Englewood.

(b) As a matter of legislative determination and public policy, the provisions, regulations and prohibitions of this ordinance are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, and welfare and the peace and quiet of the City of Englewood and its inhabitants.

(c) This ordinance shall apply to the control of sound originating from stationary sources within the limits of the City of Englewood.

15-5. Definitions.

Commercial area means a group of commercial properties and the abutting public rights-of-way and public spaces.

Commercial property means any facility or property used for activities involving the furnishing or handling of goods or services, including but not limited to:

- 1 commercial dining;
- 2 offroad vehicle operating such as repair, maintenance, terminalling;
- 3 rental services;
- 4 wholesale services;
- 5 banking and office activities;
- 6 recreation and entertainment;
- 7 community services;
- 8 public services;
- 9 other commercial activities.

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

dBA means the abbreviation designating both the unit of measured sound level (the decibel) and the mode of measurement that uses the A-weighting of a sound level meter.

Decibel (dB) means 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 of 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 means any intentional dismantling, destruction, or removal of buildings or structures.

Emergency work means any work or action necessary to restore 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, and abating life threatening conditions.

Industrial property means any facility or property used for activities involving the production, fabrication, packaging, storage, warehousing, shipping, or distribution of goods.

Motor vehicle means any vehicle which is propelled or drawn on land by an engine or motor.

Noise means any airborne sounds of such level and duration as to be or tend to be injurious to human health or welfare, or that would unreasonable interfere with the enjoyment of life or property.

Noise control officer means any 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 citations of violations of this ordinance.

Noise disturbance means any sound that endangers the safety or health of any person, disturbs a reasonable person of normal sensitivities, or endangers personal or real property.

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

Public space means any real property or structures thereon that are owned or controlled by a governmental entity.

Real property line means 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 multi-dwelling unit building.

Residential area means a group of residential properties and the abutting public rights-of-way and public spaces.

Residential property means any property used for human habitation.

Sound level means 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 means an instrument for the measurement of sound levels as specified in NJAC 7:29B, which provisions are incorporated herein by reference.

Sound pressure level means the level of a sound measured in decibel units with a sound level meter which has a uniform response over the band of frequencies measured.

15-6. Powers, duties, and qualifications of the noise control officer.

(a) The provisions of this ordinance respecting maximum sound levels shall be enforced by the noise control officer. All other provisions may be enforced by either the noise control officer or any police officer of the City.

(b) The noise control officer shall have the power to:

1. coordinate the noise control activities of all City departments and cooperate with

all other public bodies and agencies to the extent practicable;

2. review the actions of other City departments and advise such department of the

effect, if any, of such actions on noise control;

3. review private projects, subject to mandatory review or approval by other departments, for compliance with this ordinance.

(c) The noise control officer shall have the authority to grant permits for variances according to the provisions of Section 15-10.1, provided the variances are consistent with NJAC 7:29 et seq.

(d) The noise control officer shall not use this ordinance in situations within the jurisdiction of the federal Occupational Safety and Health Act.

(e) 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, the State University.

2. A program of tutoring and on the job training offered by the NJ 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 provision of paragraphs (A) and (B) of this section.

(f) Noise measurements made by the noise control officer must be taken according to procedures specified by NJAC 7:29B, which provisions are incorporated herein by reference.

15-7. Duties and responsibilities of other departments.

All departments, boards, and agencies of the City of Englewood shall, to the fullest extent consistent with other law, carry out their programs and activities in such a manner as to further the policy of this ordinance, and shall cooperate with the noise control officer in the implementation and enforcement of this ordinance.

15-8. Maximum permissible sound levels.

(a) No person shall cause, suffer, allow, or permit the operation of any source of sound on the particular category of property or any public lands 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 1 when measured at or within the real property line of the receiving property.

(b) When measuring noise within a multi-dwelling unit, all doors and windows shall be closed and the measurements shall be taken in the center of the room.

15-9. Prohibited acts.

(a) No person shall cause, allow, or permit to be made verbally or mechanically, any noise disturbance. Non-commercial 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 system - Using or operating of any loudspeaker, public address system, or similar device between the hours of 10PM and 6AM in the following day, such that the sound therefrom creates a noise disturbance across from 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.

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 compacting refuse by persons engaged in the business of scavenging or private garbage collection, in such a manner as to create a noise disturbance across residential property anytime on Sundays and legal holidays or between the hours of 8PM and 6AM on any other day of the week, provided however, that such prohibitions shall not apply to the loading or unloading of residential furnishings from or into any residential dwelling unit.

5. Standing motor vehicle - Operating or permitting the operation of any motor or any auxiliary equipment attached to such a vehicle, for a period of longer than 3 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way of public space within 150 feet of a residential area between the hours of 8PM and 8AM in the following day.

6. Motor vehicle repairs and testing - Repairing, rebuilding, modifying, or testing any motor or engine in such a manner as to exceed any applicable limit in Table 1 across a residential area property line.

7. Construction or repairing of buildings - Operating or permitting the operation of any tools or equipment used in construction, pneumatic drilling, earthmoving, excavating, or demolition work, other than domestic power tools operated by the owner or occupant of residential premises while performing any of the above work on such premises owned or occupied by him, at any time on Sundays and legal holidays on Mondays through Fridays or the hours of 9AM and 5PM on Saturdays, except in case of emergency work or by issuance of a special variance pursuant to section 15-10.1 hereof.

8. Horns, signaling devices, etc. - The sound of a whistle or other device operated by engine exhaust, or the sounding of any horn or signaling device on any device, except as a warning pursuant to the provisions of RS 39:3-69.

9. Exhausts - The discharge into the open air of the exhaust of any internal combustion engine, including a motor vehicle, lawn mower, chain saw, or other device powered by an internal combustion engine, except through an adequate muffler or other device which will effectively prevent loud or explosive noise emanating therefrom.

10. Hawkers, peddlers - The shouting and crying of peddlers, hawkers, and vendors for the purpose of attracting attention to any performance or show or sale or display of merchandise.

11. Drums, bells, and the like - The use of any drum, bell, horn, loudspeaker, or other instrument or device for the purpose of attracting attention to any performance or show or sale or display of merchandise.

(c) Proof of a violation of any provision of Section 15-9 hereof shall not require proof of the decibel level of the noise which is alleged to constitute such violation.

15-10 Exceptions.

(a) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated with a muffler between the hours of 8AM and 8PM on weekdays and 9AM to 8PM on

weekends and legal holidays, provided they produce less than 85dBA at any real property line of a residential property.

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

(c) Noise from construction activity, except as provided in Section 15-9b (construction or repairing of buildings).

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

(e) Noise from stationary emergency signaling devices that conforms with the provisions of NJAC 7:29-13 which provisions are incorporated herein by reference.

(f) Noise from an exterior burglar alarm of any building or motor vehicle provided such burglar alarm shall terminate its operation within 15 minutes of its being activated.

(g) Noise from the performance of any public or governmental function such as the sounding of a police, fire, ambulance, air raid, or like disaster warning, alert, or alarm when such alarm is sounded for an emergency purpose and is necessary to warn pedestrians and motorists.

(h) Noise from engaging in political activity by means of a sound truck or other amplifying device, provided that such persons shall have first filed with the noise control officer an application for a permit setting forth the sponsorship, date, hours, and routes of such activity and the noise control officer shall have issued a permit after having ascertained that such activity is not in conflict in terms of hours, route, traffic volume, and like factors with respect to any previously scheduled activity.

(i) Noise from engaging in any activity specifically permitted or required by an ordinance, resolution, statute, or governmental regulation.

(j) Noise from engaging in any parade, event, or recreational activity organized or recognized by the City of Englewood, in a location designated by the City of Englewood for such activity.

15-10.1 Conditions for variance.

(a) Any person who owns or operates any stationary noise source may apply to the noise control officer for a variance or a partial variance from one or more of the provisions of this ordinance upon service by certified mail/return receipt requested of a written notice to all owners and residents of properties adjoining the property on which the stationary noise source is located. Such notice shall set forth the information contained on the application and shall further state that any objection to the requested variance must be provided in writing to the applicant and filed with the noise control officer within 10 days of receipt thereof. Applications for a variance shall supply information including, but not limited to:

1. information of the nature and location of the facility or process for which said application is made;
2. the reason for which the variance is required;
3. the nature and intensity of noise that will occur during the period of the variance;
4. a description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom;
5. a specific schedule of the noise control measures which shall be taken to bring

the source into compliance. Failure to supply the information required by the noise control officer shall be cause for rejection of the application.

(b) There shall be a fee of \$10 payable by the applicant to the City to cover expenses resulting from the processing the variance application.

(c) The noise control officer may grant a variance from the provisions of this ordinance where the strict application thereof would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the applicant provided that such variance can be granted without substantial detriment to the public health, safety, and welfare. The noise control officer may, at his/her discretion, limit the duration of the variance, which shall never be longer than one year. Any person holding a variance and needing an extension of time may apply for a new variance under the provision of this section.

(d) The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the noise control officer if the public health so requires.

(e) If written objection is received to the requested variance, the noise control officer shall schedule an informal hearing upon 10 days notice to the applicant and the objectors at which time all interested parties may be heard and may present evidence. The noise control officer shall not be bound by the strict application of the rules of evidence. Upon the conclusion of such hearing, the noise control officer shall issue a written decision and shall furnish a copy of same to the applicant and each objector appearing.

15-10.2 Enforcement.

(a) Upon the complaint of any citizen, the noise control officer or any police officer of the City of Englewood shall investigate any alleged violation of this ordinance and upon information or belief, may cause a complaint or summons to be issued.

(b) The foregoing shall not be construed to limit the right to any aggrieved person to sign a complaint or otherwise seek enforcement of any provision of this ordinance.

(c) No provision of this ordinance 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 ordinance or from other law.

(d) In lieu of issuing a summons as provided in section (a), the noise control officer may issue an order requiring abatement of any source of sound alleged to be in violation of this ordinance within a reasonable time period and according to guidelines which the noise control officer may prescribe.