



Legislation Text

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AN ORDINANCE AMENDING TITLE XX OFFENSES, MISCELLANEOUS, CHAPTER 3 NOISE CONTROL, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING SECTIONS CONCERNING THE HOURS OF PROHIBITED ACTS AND INCREASING THE PENALTIES.

WHEREAS, the prevalence of noise emanating from construction in the City of Newark is widespread and disrupts the peace and tranquility of Newark residents; and

WHEREAS, the Municipal Council is desirous of extending the prohibition of construction during various times on Saturdays; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, N.J.S.A. 40:49-5 authorizes a municipality to utilize a range of fines and penalties for the violation of any ordinance it may have the authority to pass.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Note: Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~.

1. Title XX Offenses, Miscellaneous, Chapter 3 Noise Control, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented is amended as follows:

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 before 9:00 a.m. on Saturdays~~ and at any time on Sundays 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.**

20:3-18. PENALTIES.

a. Any person who violates Section 20:3-13b shall be fined **no less than** ~~up to~~ one hundred (\$100.00) dollars **nor more than two hundred fifty (\$250.00) dollars** upon conviction.

b. Any person who violates any other provision of this chapter shall upon conviction be fined **at least a minimum fine of one hundred (\$100.00) dollars but** not more than ~~one hundred (\$100.00)~~ **seven hundred fifty (\$750.00) dollars** for a first offense; not more than ~~two hundred fifty (\$250.00)~~ **one thousand two hundred and fifty (\$1,250.00) dollars** for a second offense; not more than ~~five hundred (\$500.00)~~ **two thousand (\$2,000.00) 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)~~ **one hundred (\$100.00) dollars** and not more than ~~five hundred (\$500.00)~~ **two thousand (\$2,000.00) dollars**.

d. Any person who is convicted of violating any provision of this Chapter within one (1) year of the date of a previous violation and who was fined for the previous violation shall be sentenced by the Court to an additional fine as a repeat offender. The additional fine shall be between one hundred (\$100.00) dollars and two thousand (\$2,000.00) dollars, but shall be calculated separately from the fine imposed for the new violation of this Chapter.

~~e.~~ Each day of a violation of any provision of this Chapter shall constitute a separate offense.

2. If any provision of this Ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and to this end, the provisions of this Ordinance are declared severable.

3. The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance amends Title XX Offenses and Miscellaneous, Chapter 3 Noise Control, of the Revised General Ordinances of the City of Newark, New Jersey 2000, as amended and supplemented, by amending Sections concerning the hours of Prohibited Acts and increasing the amount of Penalties.