

Chapter 8.44 NOISE CONTROL

8.44.010 Title.

This chapter shall be known and may be cited as the Noise Chapter of the Township of Berkeley Heights, County of Union, State of New Jersey.

(Prior code § 59-1)

8.44.020 Definitions and standards.

- A. Terminology and Standards. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

"Ambient noise level" means an average of the sound levels associated with a given environment during a specific time period. As referenced herein, the ambient noise level is defined to be the A-weighted sound level exceeded ninety (90) percent of the time during a representative fifteen-minute time period, if such level is determined. In the absence of such a determination, the ambient is defined to be forty (40) dBA.

"A-weighted sound level" means the sound level as measured on a sound level meter using the A-weighting network. The level so read shall be designated "dBA."

"Cyclically-varying noise" means fluctuating or impulsive noise which varies in sound level such that the same level is repeatedly obtained at reasonably uniform intervals of time.

"Decibel" means a logarithmic unit of measure used in describing the amplitude of sound. Decibel is denoted as "dB."

"Device" means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

"Emergency vehicle" means a motor vehicle used in response to a public calamity or to protect persons or property from imminent danger.

"Emergency work" means work made necessary to restore property to a safe condition; work to restore public utilities; or work required to protect persons or property from an imminent exposure to danger.

"Fluctuating noise" means any noise having a sound level which varies more than six dBA during a one-minute interval and does not equal the previously existing ambient noise level more than once during the one-minute interval.

"Impulsive noise" means a noise characterized by excursions of sound levels whose peak levels exceed the ambient by ten (10) dBA. The duration of a single impulse is less than one minute.

"Motor vehicle," as defined in the motor vehicle code of the state; or any vehicle which is propelled or drawn by mechanical equipment.

"Noise disturbance" means any sound which annoys or disturbs reasonable persons with normal sensitivities; or any sound which injures or endangers the health, hearing or safety of persons; or any sound

which interferes with or interrupts the repose or rest of any person occupying a residential use between the hours of nine p.m. to seven a.m.

"Person" means any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the United States, a state or any political subdivision of that state.

"Plainly audible noise" means any noise having a sound level greater than ten (10) dBA with respect to the ambient.

"Property boundary" means an imaginary line at the ground surface, and its vertical extension, which separates the property owned by one person from that owned by another person.

"Repetitive impulsive noise" means any impulsive noise having a sound level which exceeds the ambient by more than ten (10) dBA more frequently than once per minute.

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

"Sound" means a temporal and spatial oscillation in air pressure.

"Sound level" means twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressures which shall be two ten-thousandths (0.0002) of a microbar.

"Sound level meter" means an instrument, including weighting networks, for measuring sound levels which conforms to applicable specifications of the American National Standards Institute (ANSI) or its successor body.

"Sound pressure" means instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

"Stationary noise source" means any noise source fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

"Steady noise" means a sound level which remains essentially constant during the period of observation. i.e., the fluctuations are too small to meet the criterion for fluctuating or impulsive noise.

"Weekday" means any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday which is not a legal holiday.

(Prior code § 59-2)

8.44.030 Prohibited noises.

- A. It is unlawful for any person to make or continue, or cause to be made or continued, any excessive or unusually loud noise, or to create a noise disturbance within the limits of the township as hereinafter described and provided.
- B. Specific Prohibitions. The following acts, among others, are declared to be loud, disturbing or excessive noise in violation of this chapter, but such enumeration shall not be deemed to be exclusive, namely:
 - 1. Horns and Signaling Devices. The sounding of any horn or signaling device on any motor vehicle on any public right-of-way, except as a danger warning signal or as provided in the vehicle code of the state of New Jersey.
 - 2. Radios, Television Sets and Similar Devices. Operating or permitting the use or operation of any radio, musical instrument, television, phonograph, percussion instrument or other device for the production or reproduction of sound, except as provided for in subsection (B)(3) of this section, between the hours

of ten p.m. and the following seven a.m., in such a manner as to be plainly audible across property boundaries or through partitions common to two parties within a building, or plainly audible at fifty (50) feet from such device when operated within a motor vehicle parked on a public right-of-way or on a public space.

3. Exterior Loudspeakers. Using or operating a loudspeaker exterior to any building or powered motor vehicle such that the sound therefrom is plainly audible at or beyond the property boundary of the source, or on a public way except as provided by permit herein.
4. Animals. No person shall allow any animal he or she owns to disturb by noise the quiet and repose of another person of ordinary sensibilities so as to affect his or her health and comfort.
5. Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans or other similar objects between the hours of ten p.m. and seven a.m. the following day in such a manner as to cause noise disturbance.
6. Construction Noise. Operating or causing to be operated any equipment, other than hand tools or lawn or garden equipment, for commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto, in residential or commercial land uses, between the hours of seven p.m. and seven a.m. the following day on weekdays, and between seven p.m. Saturday night and seven a.m. Monday morning, except by permit.
7. Vehicle Operations, Repairs or Testing. Idling, operating, repairing, assembling, rebuilding, modifying or testing any powered motor vehicle in or near a residential use in such a manner as to cause noise disturbance.
8. Quiet Zone. Creating any noise disturbance within the quiet zone of any school, library, hospital, nursing home or other designated area where exceptional quiet is necessary while the same are in use, provided that conspicuous signs are displayed in adjacent or contiguous streets indicating that the same is a quiet zone, except by permit. The quiet zone areas will be delineated by resolution of the council from time to time and appropriate signs erected indicating same.
9. Power Equipment. Operating or permitting to be operated any power saw, sander, drill, grinder or garden or other equipment of like nature used primarily outdoors in residential use areas, which is likely to cause a noise disturbance, between the hours of ten p.m. and seven a.m. the following day.

(Ord. 11-08 § 4 (part); prior code § 59-3)

8.44.040 Exceptions and permits.

- A. Township Exception. Noise caused by any Township official, employee or agent, within the scope of work being performed on behalf of the Township; or caused by or during any Township organized or sponsored event or activity shall not be subject to the provisions of this Chapter.
- B. Emergency Exception. Noise caused in the performance of emergency work or for removal of snow or ice or by use of emergency signaling devices shall not be subject to the provisions of this chapter.
- C. Permit Issuance. The police department is authorized to grant permits as required by any provision of this chapter, subject to such limitations as to area, noise levels, time limits and other terms and conditions as it determines are appropriate to protect the public health, safety and welfare from the noise emanating therefrom. This section shall in no way affect the duty to obtain any other permit or license required by law for such activities.
- D. Exceptions for Time to Comply.

1. Upon good cause shown by the owner of any noise source, the township zoning officer shall have the power to grant an exemption from the operation of this chapter in order to allow sufficient time for installation of needed control equipment, facilities or modifications to achieve compliance, not to exceed fourteen (14) days, provided that such exemption may be renewed for an additional like period, but only if satisfactory progress toward compliance is shown.
2. Any person may appeal any ruling of the zoning officer or police department by filing a petition with the council. The council may cause such appeal to be investigated and shall consider the views of all persons who might be adversely affected by the grant of an exemption or permit.
3. The council, by resolution, shall then file and publish a written order, stating the facts and reasons leading to its decision.

(Ord. 11-08 § 4 (part); prior code § 59-4)

(Ord. No. 10-2014, § 1, 10-7-2014)

8.44.050 Noise levels by land use.

- A. Maximum Permissible Sound Levels from Stationary Sources. It is unlawful for any person to operate or permit to be operated any stationary source of noise in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use in Table 1 when measured at the property boundary. When a noise source can be identified and its noise measured in more than one land use, the limits of the most restrictive use shall apply at the boundaries between different land uses.

Table 1
Limits for Steady Noise Sound Level
(dBA)

Receiving Land Use Category	Time	Cumulative Duration of Noise Source Operation in Any One Hour (minutes)			
		Less Than			Greater Than
		3	3-12	12-30	30
Residential, open space	7:00 a.m.—10:00 p.m.	75	65	60	55
Agricultural or institutional	10:00 p.m.—7:00 a.m.	50	50	50	50
Research, commercial or business	All times	85	75	70	65
Industrial or manufacturing	All times	95	85	80	75

- B. Correction for Character of Noise.
1. The limits set forth above refer to steady noise; however, in the event the noise is cyclically varying or is repetitive impulsive in character, the above limits shall each be reduced by five dBA.
 2. Notwithstanding compliance with subsection (B)(1) of this section, it is unlawful for any person to operate, or permit to be operated, any stationary source of noise which emits a cyclically varying or repetitive impulsive noise which creates a noise disturbance.

(Prior code § 59-5)

8.44.060 Motor vehicle noise levels.

A. Maximum Permissible Noise Levels of Motor Vehicles Operating on Public Rights-of-Way.

1. No person shall operate a motor vehicle on a public right-of-way at any time in such manner that the sound level emitted by such vehicle exceeds the levels set forth in Table 2 when measured at the location established in the following subsection (A)(2) of this section. This section shall apply to all motor vehicles, whether publicly or privately owned, that are duly licensed.

Table 2
Sound Level
(dBA)

Vehicle Class	Speed Limit (35 mph or less)	Time	Speed Limit (35 mph to 40 mph)
Interstate motor carrier	86	8:00 a.m. - 7:00 p.m. weekdays	87
	75	All other times	76
All other motor vehicles with a manufacturer's gross vehicle rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle	86	8:00 a.m. - 7:00 p.m. weekdays	87
	75	All other times	76
Any motorcycle other than a motor-driven cycle	70	All times	71
Any other motor vehicle and any combination or vehicles towed by such motor vehicle	70	All times	71

2. Measurement Distance. For the purpose of this section, the standard measurement height shall be four feet [one and two-tenths (1.2) meters] and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be fifty (50) feet [fifteen (15) meters]. Whenever it is not feasible to use fifty (50) feet, the distance may be shortened to twenty-five (25) feet [seven and five-tenths (7.5) meters], in which case the values in Table 2 of this section shall be increased by six dBA.
3. Federal Preemption. At such time as the Administrator of the United States Environmental Protection Agency establishes noise standards applicable to the operation of licensed interstate motor carriers, pursuant to the Federal Noise Control Act of 1972 (Public Law 92-574), such standards and measurement techniques shall be incorporated herein by reference to be applicable to the period of use after the first sale to an ultimate purchaser; and any conflicting standards herein shall be superseded with respect to those classes of motor vehicles covered by such federal standards.

B. Maximum Permissible Noise Levels for Vehicles Operating Off Public Rights-of-Way. No person shall operate a motor vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds seventy (70) dBA when measured at the standard horizontal measurement distance of fifty (50) feet [fifteen (15) meters] from the motor vehicle and the standard measurement height of four feet (one and two-tenths meters).

(Prior code § 59-6)

8.44.070 Violations and penalties.

- A. Any person other than a governmental agency who shall be found guilty of violating any provision of this chapter shall, for each offense, be fined in a sum of not more than two hundred dollars (\$200.00). Every day of violation shall constitute a separate offense.
- B. Any person, firm or corporation who shall be found guilty of violating any provision of this chapter for a third time within a month's period shall, for each offense, be fined in a sum of not more than five hundred dollars (\$500.00).

(Prior code § 59-7)

8.44.080 Additional remedy by injunction.

The operation or maintenance of any noise source in violation of any provision of this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Prior code § 59-8)

8.44.090 Enforcement.

The police department shall have the power to enforce or bring complaints under this chapter.

(Prior code § 59-10)

8.44.100 Effect on other remedies.

Nothing in this chapter shall be construed to impair any cause of action, or legal remedy therefor, of any person or the public for injury or damage arising from any violation of this chapter.

(Prior code § 59-11)