

Noise Ordinance versus Nuisance Code

Introduction

This is an overview of the New Jersey laws governing noise control, with an emphasis on which laws may be enforced by county and municipal agencies. This summary should not be construed as legal advice, but rather serve as guidance to understand the extent of authority provided to local governments.

Noise Ordinance

The Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq. authorizes the New Jersey Department of Environmental Protection (NJDEP) to establish sound level standards, which are codified in the Noise Regulations at N.J.A.C. 7:29. These regulations apply to stationary commercial and industrial properties. The statewide sound level standards are 50 decibels during nighttime (10:00 p.m. to 7:00 a.m.) and 65 decibels during daytime, which applies to sources of noise specified in N.J.A.C. 7:29-1.2. A noise ordinance adopted by a county or municipality must be approved by NJDEP to verify that the ordinance is consistent with the statewide strategy for noise control and that the ordinance is more stringent than the State's noise regulations. A noise ordinance establishes standards that are measurable by a certified noise investigator using a calibrated sound meter.

NJDEP has developed a model noise ordinance for use by municipalities to address nonresidential and residential sources of noise; however, there is no requirement that a municipality uses the model. A municipality must submit the adopted noise ordinance to NJDEP for approval prior to its use.

Nuisance Code

Nuisances may be addressed as a public health nuisance under authority provides by the statute known as Health and Vital Statistics (N.J.S.A. 26:3-45 et seq.), which is enforced by the local health agency, or under the Code of Criminal Justice as a disorderly persons offense (N.J.S.A. 2C: 33-12), which is enforced by the local police. Anything injurious to public health may be considered a nuisance, and in the case of noise, this means sounds that are "unreasonably or unnecessarily loud." A nuisance code cannot establish measurable noise standards, since such standards are governed by the Noise Control Act and thus, trigger a review by NJDEP.

If there are any questions about whether a municipality should adopt a noise ordinance or nuisance code, please contact NJDEP's Office of Local Environmental Management at (609) 292-1305.