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Bureau of
Air, Noise, & Hazardous
Materials

The New York City Department of Environmental Protection's Bureau of Air, Noise & Hazardous Materials', Division of Air/Noise, Permitting, Enforcement & Policy staff has joined in the Mayor's response to quality of life problems in various problematic locations in the five boroughs of New York. DEP has been working in conjunction with the New York Police Department, and other agencies to inspect these locations, and to ensure compliance with the appropriate sections of the noise code. The pertinent section of the New York City Noise Code in which DEP's Air/Noise inspectors enforce in the MARCH initiative is the section relating to sound production devices. According to Section 24-220 (b), no person shall use or cause to be operated any sound reproduction device for commercial purposes, wherein the sound therefore can be heard upon a public street

In addition to the revenues generated from this initiative, these violations are presented as essential pieces of evidence at State Liquor Authority Licensing hearings for such establishments, such as restaurants, bars, discos, nightclubs, etc.

59-17 Junction Boulevard, 11th Floor, Corona, New York 11368-5107



Chapter 2

Noise Control

Subchapter

- 1 Short Title, Policy and Definitions
- 2 General Provisions
- 3 Prohibited Noise; General Prohibition
- 4 Prohibited Noise; Unreasonable Noise Standard
- 5 Prohibited Noise; Sound Level Standard
- 6 Ambient Noise Quality Zones, Criteria and Standards
- 7 Certificates and Tunneling Permits
- 8 Enforcement

Subchapter 1

Short Title, Policy and Definitions

- § 24-201 Short title.
- § 24-202 Declaration of policy.
- § 24-203 General definitions.

§ 24-201 Short title. This chapter shall be known and may be cited as the New York city noise control code.

§ 24-202 Declaration of policy. It is hereby declared to be the public policy of the city to reduce the ambient noise level in the city, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive and unreasonable noises within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city. For the purpose of controlling and

CHAPTER 2—NOISE CONTROL

§ 24-203

(g) Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

(h) Apparatus means any mechanism which prevents, controls, detects, measures or records the production of sound.

(i) Authorized emergency vehicle means every ambulance and every vehicle operated by a police department, fire department, fire patrol, chief or assistant chief of a fire department, county or deputy county fire coordinator, county or assistant county fire marshal, sheriff, or by a chief, assistant chief or deputy chief of a police department, a regular paid deputy sheriff or a motor vehicle of the New York city housing authority when engaged in the performance of duty as a peace officer, or by an authorized public utility company when on emergency calls, every state-owned vehicle operated by a law enforcement officer of the conservation department when engaged in performance of duty in enforcement of the environmental conservation law, and every vehicle operated by a bridge authority or bridge and tunnel authority when on emergency calls.

(j) Board means the environmental control board of the city of New York.

(k) Building means a building as defined in article two of subchapter two of chapter one of title twenty-seven of the code.

(l) Building aperture means any designed opening in a building to which a person may reasonably have access including but not limited to any door, gate, window, skylight or hatch.

(m) Burglar alarm means any sound signal device designed and intended to produce a sound signal upon unauthorized entrance by a person into a building or motor vehicle.

(n) "C" level means the total sound level of all noise as measure with a sound level meter using the "C" weighting network. The unit of measurement is the db(C).

(o) Certificate means an operating or temporary operating certificate.

(p) Charter means the charter of the city of New York including all of its amendments.

(q) Circulation device means any device which circulates a gas or fluid, including but not limited to any air conditioner, pump, cooling tower, fan or blower.

(r) Claxon means any manually, mechanically, or electrically powered device, other than an emergency signal device, including but not limited to a motor vehicle horn, which is intended to, and when operated actually does, emit a sound signal.

(s) This code means the New York city noise control code.

CHAPTER 2—NOISE CONTROL

§ 24-203

(hh) **Lawn care device** means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for the mowing of grass, the cutting or chipping of trees, tree roots or tree branches, or the clearing of leaves or other vegetation from lawns, sidewalks, public streets or public highways and shall include, but not be limited to, such devices as lawn mowers and lawn mower attachments, lawn edgers, leaf blowers, leaf vacuums, mulchers and chippers.

(ii) **Motor vehicle** means any device which is propelled by an engine in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

(jj) **Muffler** means an apparatus generally consisting of but not limited to a series of chambers or baffles for the purpose of transmitting gases while reducing sound levels.

(kk) **Noise** means an erratic, intermittent, or statistically random oscillation.

(ll) **Owner** means and includes the owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.

(mm) **Paving breaker** means any powered construction device intended to cut or trench pavement, subbase macadam, gravel, concrete or hard ground.

(nn) **Person** means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

(oo) **Power tool** means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling.

(pp) **Railroad** means a railroad, other than a rapid transit railroad or street railroad, operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities used, operated or owned by or in connection therewith.

(qq) **Rapid transit railroad** means a rapid transit railroad used for local service in the transportation of passengers as a common carrier for hire together with the appurtenances, facilities and equipment thereof.

(rr) **Refuse compacting vehicle** means a motor vehicle designed to compact and transport refuse.

(ss) **Sound** means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g., elastic, viscous), or the superposition of such propagated oscillation which evokes an auditory sensation.

Subchapter 2

General Provisions

§ 24-204	General powers of the commissioner.
§ 24-205	Investigations and studies by the commissioner.
§ 24-206	Testing by order of the commissioner.
§ 24-207	Inspection.
§ 24-208	Registrations.
§ 24-209	Interfering with or obstructing department personnel.
§ 24-210	False and misleading statements; unlawful reproduction or alteration of documents.
§ 24-211	Display of permits, certificates and other notices; removal or mutilation prohibited.
§ 24-212	Enforcement of code by other than compulsory means.
§ 24-213	Service of papers.
§ 24-214	Inconsistent provisions.
§ 24-215	[Reserved]
§ 24-216	Noise abatement contract compliance.
§ 24-217	Exemptions.

§ 24-204 General powers of the commissioner. Subject to the provisions of this code, the commissioner may take such action as may be necessary to abate a sound source which causes or may cause, by itself or in combination with any other sound source or sources, an unreasonable noise. The commissioner may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code.

§ 24-205 Investigations and studies by the commissioner. The commissioner may make or cause to be made any investigation or study which in his or her opinion is desirable for the purpose of enforcing this code or controlling or abating an unreasonable noise. For such purposes, the commissioner may make tests, conduct hearings, compel the attendance of witnesses, and take their testimony under oath and may compel the production of books, papers and other things reasonably necessary to the matter under consideration.

§ 24-206 Testing by order of the commissioner. (a) If the commissioner has reasonable cause to believe that any device is in violation of this code, the commissioner may order the owner of the device to conduct such tests as are necessary in the opinion of the commissioner to determine whether the device or its operation is in violation of this code and to submit the test results to the commissioner within ten days after the tests are completed.

ER 2—NOISE CONTROL

§ 24-213

Department of any change in any item of information furnished in compliance with this subdivision within a reasonable time not exceeding thirty days after the change is made.

(c) Registration shall be made by the owner of the device. If a registrant is a partnership or group other than a corporation, the registration shall be made by one individual who is a member of the group. If the registrant is a corporation, the registration shall be made by an officer of the corporation.

§ 24-209 Interfering with or obstructing department personnel. No person shall interfere with or obstruct the commissioner or any department employee in carrying out any duty for the commissioner or the board.

§ 24-210 False and misleading statements; unlawful reproduction or alteration of documents. (a) No person shall knowingly make a false or misleading statement or submit a false or misleading document to the department as to any matter within the jurisdiction of the department.

(b) No person shall make, reproduce or alter or cause to be made, reproduced or altered a tunneling permit, certificate or other document issued by the commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law.

§ 24-211 Display of permits, certificates and other notices; removal or mutilation prohibited. Any tunneling permit or certificate required by this code shall be displayed in the vicinity of the device on the premises designated on the tunneling permit or certificate or in the vicinity of the place where the device will be operated or supervised.

§ 24-212 Enforcement of code by other than compulsory means. Nothing in this code shall prevent the commissioner from making efforts to obtain voluntary compliance by way of warning, notice or educational means. However, such noncompulsory methods need not be used before proceeding by way of compulsory enforcement.

§ 24-213 Service of papers. (a) Service of any written notice, order or decision required by this code shall be made on the owner as follows:

(1) Either by mailing the notice, order or decision directed to the owner of the device at the address listed in his or her application, tunneling permit or operating certificate or at the address where the device is located; or

(2) By leaving the notice, order or decision with the owner of the device, or if the owner is not an individual, with a member of the partnership or group concerned or with an officer or managing agent of the corporation.

CHAPTER 2—NOISE CONTROL

§ 24-217

(b) **Contract provisions.** No contract shall be awarded or entered into by a contracting agency, unless such contract contains provisions requiring that:

1. Devices and activities which will be operated, conducted, constructed or manufactured pursuant to the contract and which are subject to the provisions of the code will be operated, conducted, constructed or manufactured without causing a violation of the code; and

2. Such devices and activities incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices and activities.

(c) **Regulations.** The commissioner may from time to time promulgate regulations setting forth such specifications for the operation, conducting, construction or manufacture of devices and activities pursuant to city contracts as he or she deems necessary to comply with the provisions of this section.

(d) No person shall cause or permit the operation of a device or conducting of an activity in such a way as to violate any provision of a contract required by this section or any regulation promulgated pursuant to this section.

(e) No regulations promulgated pursuant to this section shall alter the terms, conditions and specifications of a contract for which bids have been opened, at the time of issuance of such regulation.

§ 24-217 Exemptions. The provisions of this code shall not apply to the operation or use of any organ, bell, chimes or other similar instrument by any church, synagogue, mosque or school.

Subchapter 3

Prohibited Noise; General Prohibition

§ 24-218 General prohibitions.

§ 24-218 General prohibitions. No person shall make, continue or cause or permit to be made or continued any unreasonable noise, except that this section shall not apply to any sound from any source where the decibel level of such sound is within the limits prescribed by another section of this title and where there is compliance with all other applicable requirements of law with respect to such sound.

Subchapter 4

Prohibited Noise

Unreasonable Noise Standard

§ 24-219	[Reserved]
§ 24-220	Sound reproduction devices.
§ 24-221	Sound signal devices.
§ 24-222	Animals.
§ 24-223	Emergency signal devices.
§ 24-224	Construction activities.
§ 24-225	Construction devices.
§ 24-226	Containers and construction material.
§ 24-227	Exhausts.
§ 24-227.1	Lawn care devices.
§ 24-227.2	Power tools.
§ 24-228	Schools, hospitals, courts.
§ 24-229	Noise sensitive zones.
§ 24-230	Regulations.

§ 24-219 [Reserved]

§ 24-220 Sound reproduction devices. (a) Except as provided in section 10-108 of the code, no person shall operate or use or cause to be operated or used any sound reproduction device in such a manner as to create any unreasonable noise.

(b) No person shall operate or use or cause to be operated or used any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show, or sale or display of merchandise, in connection with any commercial or business enterprise including those engaged in the sale of radios, television sets, phonographs, tape recorders, phonograph records or tapes, in front or outside of any building, place or premises, or in or through any aperture of such building, place or premises, abutting on or adjacent to a public street, park or place, or in or upon any vehicle operated, standing or being in or on any public street, park or place, where the sound therefrom may be heard upon any public street, park or place, or from any stand, platform or other structure, or from any airplane or other device used for flying, flying over the city, or on a boat or on the waters within the jurisdiction of the city, or anywhere on the public streets, parks or places. Nothing in this section is intended to prohibit incidental sounds emanating from a sporting or entertainment or a public event for which a permit under section 10-108 of the code has been issued.

CHAPTER 2—NOISE CONTROL

§ 24-224

(h) (1) Notwithstanding the provisions of subdivision (d) of this section, any member of the police department may arrange for the removal of a motor vehicle from a public highway or parking lot open to the public, when (i) an audible burglar alarm installed on such vehicle is operated in violation of this section or an audible status indicator is operated on such vehicle and (ii) all reasonable and necessary steps to disconnect such alarm or audible status indicator have been taken without success. Authorized personnel of the department or the department of transportation may request a member of the police department to arrange for the removal of such vehicle. When such removal is requested, the notice of violation for operation of an audible burglar alarm in violation of this section or for the operation of an audible status indicator shall state that a member of the police department took all reasonable and necessary steps to disconnect such alarm or such audible status indicator without success. Such removal may be accomplished by utilizing any existing city-operated tow program, the rotation tow program established pursuant to section 20-519 of the code or such other procedures as may be established. The cost of towing and storage of such motor vehicle shall be the responsibility of the owner or other person who claims such motor vehicle.

(2) An opportunity for a hearing before the environmental control board shall be provided to the owner of a motor vehicle removed pursuant to paragraph one of this subdivision within five business days after a request for a hearing is made to determine whether there was a basis for such removal. The environmental control board shall render a decision within two business days following the conclusion of the hearing. If it is determined that there was no basis for removal of a vehicle pursuant to paragraph one of this subdivision, the owner of such vehicle may recover from the city any amounts paid by such owner for towing and storage.

(i) The department, the police department and the department of transportation shall have the authority to enforce the provisions of this section.

(j) No person shall operate or use or cause to be operated or used any sound signal device attached to a motor vehicle, wagon or manually propelled cart from which food or any other items are sold, which emits a sound signal more frequently than once every ten minutes in any one city block and with a duration of more than ten seconds for any single emission.

§ 24-222 Animals. No person shall permit an animal, including a bird, under his or her control to cause unreasonable noise.

§ 24-223 Emergency signal devices. No person shall operate or use or cause to be operated or used any emergency signal device, except on an authorized emergency vehicle when such vehicle is in the immediate act of responding to an emergency; provided that such device shall not be operated so as to create an unreasonable noise nor for a period of time longer than is strictly necessary to respond to such emergency.

§ 24-224 Construction activities. (a) Except as otherwise provided in this section, no person shall engage in or permit any person to be engaged in construction activities in any zone other than on weekdays between the hours of seven a.m. and six p.m. A person may, however, engage in construction ac-

CHAPTER 2—NOISE CONTROL

§ 24-230

the hours of seven a.m. and eight a.m. in any location more than three hundred feet from any building that is lawfully occupied for residential use. The distance of three hundred feet shall be measured in a straight line from the point on the exterior wall of such building nearest to any point in the location at which such lawn care device is operated or used or caused to be operated or used.

§ 24-227.2 Power tools. No person shall operate or use or cause to be operated or used any power tool in such a way as to create an unreasonable noise; provided, however, that when a person actually operates or uses a snow blower, or causes a snow blower to be operated or used, for the purpose of complying with subdivision a of section 16-123 of this code, such person shall not be in violation of this section.

§ 24-228 Schools, hospitals, courts. No person shall cause or permit the creation of any unreasonable noise through the use of any device on any street adjacent to any school or court while the same is in session, or adjacent to any hospital.

§ 24-229 Noise sensitive zones. (a) Whenever the protection of the public health and comfort so requires, the commissioner and the board of health may by joint order designate any geographical area of the city of New York as a noise sensitive zone. Such designation shall be accompanied by a joint administrative order setting forth a description of the subject geographical area, the reasons for its determination as a noise sensitive zone, and shall list those activities which if undertaken in such zone, would constitute unreasonable noise. Such order shall be published in the City Record at least five days but not more than ten days prior to its effective date, and shall be effective for a period of not more than sixty days, renewable for additional periods of sixty days.

(b) Any person suffering undue hardship by reason of the operation of an order promulgated pursuant to subdivision (a) hereof may request a hearing on written notice to the commissioner. Such person shall be afforded a hearing within ten days of receipt of such notice. The commissioner shall issue a final decision thereon within three days of the conclusion of a hearing held pursuant to this subdivision.

(c) No person shall engage in or permit any person to be engaged in any activity so as to violate the provisions of any order issued pursuant to subdivision (a) hereof.

§ 24-230 Regulations. The commissioner shall have the power to promulgate such regulations as may be necessary to carry out the purposes of this chapter.

Subchapter 5***Prohibited Noise;
Sound Level Standard***

§ 24-231	[Reserved]
§ 24-232	Motor vehicles.
§ 24-233	Aircraft.
§ 24-234	Rapid transit railroads.
§ 24-235	Railroads.
§ 24-236	Air compressors.
§ 24-237	Circulation devices.
§ 24-238	Refuse compacting vehicles.
§ 24-239	Motor vehicle claxons.
§ 24-240	Emergency signal devices.
§ 24-241	Paving breakers.
§ 24-241.1	Commercial music.
§ 24-242	Regulations.

§ 24-231 [Reserved]

§ 24-232 Motor vehicles. (a) No person shall operate or permit to be operated any motor vehicle at any time or under any condition whatsoever, including but not limited to grade, load, idling, velocity, acceleration or deceleration, in such manner as to exceed the sound levels set out in either column I or column II of table I below, measured as follows: the sound levels listed in column I shall be measured by a sound level meter placed at a distance of fifty feet plus or minus two feet from the center of the lane of the public highway in which the motor vehicle is idling or is traveling within the speed limits specified in this section; the sound levels listed in column II shall be measured by a sound level meter placed at a distance of twenty-five feet plus or minus two feet from the center of the lane of the public highway in which the motor vehicle is idling or is traveling within the speed limits specified in this section.

(b) Where a motor vehicle is operated in a place other than a public highway, the sound levels in column I shall be measured by a sound level meter placed at a distance of fifty feet plus or minus two feet from the center line of the rear face of such vehicle where such vehicle is idling or is traveling within the speed limits specified in this section; the sound levels

CHAPTER 2—NOISE CONTROL

§ 24-234

enactment into this code allowable sound levels and ambient noise quality criteria and standards for areas affected by noise generated by airports and aircraft using airports in the city of New York. Such sound levels and such ambient noise quality criteria and standards shall be developed in accordance with a comprehensive methodology for controlling and abating airport noise, including but not limited to the following methods:

1. Encouraging use of the airport by aircraft classes with lower sound level characteristics and discouraging use by higher sound level aircraft classes;
2. Encouraging approach and departure flight paths and procedures to minimize the noise in residential areas;
3. Planning runway utilization schedules to take into account adjacent residential areas, noise characteristics of aircraft and noise sensitive time period;
4. Reduction of the flight frequency, particularly in the most noise sensitive time periods and by the noisier aircraft;
5. Employing shielding for advantage, using natural terrain, buildings, etc.; and
6. Development of a compatible land use within the noise impact boundary.

Preference shall be given to actions which reduce the impact of airport noise on existing communities. Land use conversion involving existing residential communities shall be considered the least desirable action for achieving compliance with allowable sound levels and ambient noise quality criteria and standards adopted pursuant to this section.

Allowable sound levels and ambient noise quality criteria and standards defined and submitted pursuant to this section shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health, welfare and comfort of any noise, or combination of noises, generated by airports and aircraft using airports in the city of New York and shall be based on the latest economically feasible and available technology for the abatement of noise generated by airports in the city of New York.

§ 24-234 Rapid transit railroads. (a) On or before September first, nineteen hundred seventy-three, the commissioner shall define and submit to the city council for enactment into this code allowable sound levels and acoustical performance standards for the design and operation of new and existing rapid transit railroads, including but not limited to allowable sound levels and acoustical performance standards for rolling stock, track and track beds, passenger stations, tunnels, elevated structures, yards, depots and garages.

CHAPTER 2—NOISE CONTROL

§ 24-238

TABLE II

Effective date	Allowable sound level
December 31, 1972	90 db(A)
June 30, 1974	85 db(A)

(c) No person shall sell, offer for sale for use within the city of New York, or operate or permit to be operated an air compressor manufactured on or after the effective dates set out in Table III which when operated produces a maximum sound level, when measured at a distance of one meter from the nearest major surface of such air compressor, exceeding the applicable allowable sound level set out therein.

TABLE III

Effective date	Allowable sound level
December 31, 1972	85 dB(A)
June 30, 1974	80 dB(A) for sizes 350 cfm or less 85dB(A) for sizes greater than 350 cfm
December 31, 1981	75 dB(A) for sizes 350 cfm or less 80 dB(A) for sizes greater than 350 cfm

(d) Except for work actually being done on a sidewalk or crosswalk, no person shall operate or permit to be operated an air compressor so as to generate noise levels in excess of 75dB(A) at nearby sidewalks, pedestrian crossings or dwellings, on and after January first, nineteen hundred seventy-nine but this limitation shall not apply where more than one lane of traffic would be necessary to implement same.

§ 24-237 Circulation devices. No person shall operate or permit to be operated a circulation device in such a manner as to create a sound level in excess of 45 dB(A) when measured inside the dwelling unit affected in a line with the window nearest the exterior face of such circulation device. The measurement shall be taken with the window fully open at a point three feet from the open portion of the window.

§ 24-238 Refuse compacting vehicles. (a) No person shall sell, offer for sale, operate or permit to be operated a refuse compacting vehicle manufactured after the effective dates set out in table IIIA, which when compacting produces a maximum sound level, when measured by a sound level meter set for slow response at a distance of ten feet from the center line of the face of the compacting unit, exceeding the applicable sound level set out therein.

CHAPTER 2—NOISE CONTROL

§ 24-242

§ 24-240 Emergency signal devices. After June thirtieth, nineteen hundred seventy-three, no person shall operate or permit to be operated an emergency signal device installed on an authorized emergency vehicle which when operated creates a sound level in excess of 90 db(A) when measured at a distance of fifty feet from the center of the forward face of such vehicle.

§ 24-241 Paving breakers. (a) On or after September thirty-first, nineteen hundred seventy-two, no person shall operate or cause to be operated a paving breaker, other than one operated electrically or hydraulically, manufactured prior to December thirty-first, nineteen hundred seventy-three, unless a pneumatic discharge muffler certified by the manufacturer of such muffler to provide a dynamic insertion loss of 5 db(A) of the sound released from the air discharge of such paving breaker is installed on such air discharge.

(b) No person shall sell, offer for sale for use within the city of New York, operate or permit to be operated a paving breaker manufactured on or after the effective dates set out in table IV which when operated produces a maximum sound level, when measured at a distance of one meter from a face of such paving breaker, exceeding the applicable allowable sound level set out therein.

TABLE IV

Effective date	Allowable sound level
December 31, 1973	103 dB(a)
December 31, 1978	100 dB(A)
December 31, 1981	95 dB(A)

§ 24-241.1 Commercial music. No person shall make or cause or permit to be made or caused any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound of such music, as measured inside any residential unit is in excess of either;

(a) 45dB(A) as measured with a sound level meter; or

(b) 45dB in any one-third octave band having a center frequency between 63 hertz and 500 hertz inclusive (ANSI bands numbers 18 through 27, inclusive, in accordance with American national standards institute standard S1.6-1984).

§ 24-242 Regulations. The commissioner shall promulgate such regulations as he or she may deem necessary with regard to standards and

Subchapter 6

Ambient Noise Quality Zones, Criteria and Standards

- § 24-243** Ambient noise quality zones, criteria and standards.
§ 24-244 Allowable sound levels.

§ 24-243 Ambient noise quality zones, criteria and standards. (a) Ambient noise quality zones.

Ambient noise quality zones are herein defined for the entire geographical area of the city of New York on the basis of those conditions which affect ambient noise levels, including but not limited to the following:

- (1) The use and activities permitted by the zoning regulations in such zones;
- (2) The intensity of sound levels produced by activities and devices in such zones;
- (3) The time at which such sound levels occur;
- (4) The duration of such sound levels;
- (5) The proximity of such activities and devices to buildings and to dwellings;
- (6) Whether the sound levels produced by such devices and activities are recurrent, intermittent, or constant; and
- (7) The density of habitation of such zones.

Ambient noise quality zones are hereby formulated on the basis of present existing land-use zones, as follows:

- (1) Ambient noise quality zone N-1:

Ambient noise quality zone N-1 shall consist of those low-density residential areas R_L presently designated as land-use zones R-1, R-2, and R-3.

- (2) Ambient noise quality zone N-2:

Ambient noise quality zone N-2 shall consist of those higher-density residential areas R_H presently designated as land-use zones R-4, R-5, R-6, R-7, R-8, R-9, and R-10.

- (3) Ambient noise quality zone N-3:

Ambient noise quality zone N-3 shall consist of all commercial and industrial areas presently designated as land-use zones C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, M-1, M-2, and M-3.

CHAPTER 2—NOISE CONTROL

§ 24-243

(v) Any other premise occupied in conformance with a certificate of occupancy as issued by the department of buildings prior to November eighteenth, nineteen hundred seventy-nine, provided, however, that in no event shall the noise levels exceed those allowable in a N-3 ambient noise quality zone or their present noise level whichever is less.

(2) All new activities not exempt by paragraph one of subdivision b of this section shall fall under the jurisdiction of this section of the noise control code upon November eighteenth, nineteen hundred seventy-nine.

(3) Three years from October nineteenth, nineteen hundred eighty-two all activities not exempt by paragraph one of subdivision b of this section shall meet these specified noise criteria.

(4) Activities not exempt by paragraph one of this subdivision in a given noise quality zone shall not cause the sound levels in any lower noise quality zone to exceed the appropriate standards of section 24-243 of the code for the lower noise zone.

(5) All noise measurements shall be made at the property line of the impacted site. When instrumentation cannot be placed at the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance less than twenty-five feet from the edge of a noise source.

(6) Where residential noise quality zones (N-1 and N-2) presently exhibit noise levels lower than 55dB(A), no new activity in any zone, with the exception of new housing or new low occupancy commercial uses shall be permitted to increase the daytime hourly Leq above 55dB(A) or the nighttime hourly Leq above 45dB(A), when measured at or referred to an impacted residential property line.

(7) All new limited-access highways hereinafter constructed or substantially reconstructed highways built in the city of New York must be designed to provide that the hourly equivalent noise levels at the property line of the nearest residence does not exceed 67dB(A).

(8) Commercial district noise standards shall apply to legally occupied mixed buildings used partly for residential use and partly for commercial or manufacturing uses between the hours of seven a. m. to ten p. m. No one shall conduct or permit to be conducted activities associated with these commercial establishments that cause the Leq noise levels, measured for any thirty minutes in the sleeping areas of nearby residences, to exceed 45dB(A) between ten p. m. and the following seven a. m.

(9) The ambient noise quality criteria and standards cited above are not presently adjusted for particular noise sources having pure tones or impulsive noise characteristics, such as jet engine whine and pile drivers, respectively. Such characteristics shall be considered in the development of allowable sound levels for sources, as part of section 24-244 of this code.

CHAPTER 2—NOISE CONTROL

§ 24-244

(ii) For temporary conditions, or to conduct noise impact assessment tests in accordance with a plan submitted to and approved by the department, a variance for a period of up to six months may be granted.

(iii) Any person seeking a variance shall do so by filing a petition in a form acceptable to the commissioner, and shall also submit an assessment of the noise impact to be caused by the activity for which the variance is requested.

§ 24-244 Allowable sound levels. (a) On or after November eighteenth, nineteen hundred seventy-nine, the commissioner may by regulation promulgate allowable sound levels with respect to any device or activity, provided that such allowable sound levels shall not be inconsistent with the ambient noise criteria and standards enacted under section 24-243 of this subchapter, with the allowable sound levels set out in subchapter five of this chapter of this code, and with the provisions of chapter one of title twenty-seven of the code.

(b) No person shall engage in or cause any other person to engage in an activity, or operate or permit the operation of a device so as to cause a sound level in excess of the appropriate allowable sound level promulgated by the commissioner pursuant to this section.

Subchapter 7

Certificates and Tunneling Permits

- § 24-245** Operating certificates and renewal of operating certificates; tunneling permits; when required.
- § 24-246** General requirements for applications for operating certificates and for tunneling permits, and removal of operating certificates.
- § 24-247** Information required for applications for operating certificates and for tunneling permits.
- § 24-248** Standards for granting operating certificates and tunneling permits.
- § 24-249** Testing before granting or renewing of operating certificates; testing before granting of tunneling permits.
- § 24-250** Action on applications for certificates or tunneling permits.
- § 24-251** Conditions of certificates or tunneling permits to be observed.
- § 24-252** Suspension or revocation of certificates or tunneling permits.
- § 24-253** Surrender of certificates or tunneling permits.
- § 24-254** Transfer of certificates.
- § 24-255** Operating certificate or tunneling permit fees.
- § 24-256** Departmental publication fees.

§ 24-245 Operating certificates and renewal of operating certificates; tunneling permits; when required. (a) The commissioner shall at his or her discretion promulgate regulations pursuant to section eleven hundred five of the city charter directing the placement of air compressors, paving breakers, refuse compacting vehicles and rapid transit railroads, including but not limited to their rolling stock, track and track beds, passenger stations, tunnels, elevated structures, yards, depots and garages, onto an operating certificate list, setting out the reasons for such placement, and setting out the period of time from issuance or renewal during which such operating certificate shall be valid, unless sooner revoked or cancelled.

(b) No person shall cause or permit the use or operation of any device placed on the operating certificate list pursuant to subdivision (a) of this section except for the purpose of testing such device without first obtaining an operating certificate from the commissioner. The placement of such a device not bearing an operating certificate at a location of its customary operation shall be considered a violation of this section in any proceeding pursuant to any applicable section of subchapter eight of this chapter of this code except section 24-269.

CHAPTER 2—NOISE CONTROL

§ 24-248

§ 24-247 Information required for applications for operating certificates and for tunneling permits. (a) Each application for an operating certificate shall contain such information as the commissioner may require in order to determine whether a device covered by the application is or will operate in compliance with the provisions of this code, including but not limited to:

(1) The model number and operating characteristics of the device covered by the application;

(2) A report certified by an approved testing laboratory as to the sound level generated by the device when operated under normal operating conditions or a manufacturer's warranty as to sound level provided that the device is regularly tested in accordance with procedures established by the American national standards institute or other appropriate professional standard-setting organization listed in section 24-242; and

(3) The proposed means, if any, for the prevention or control of unreasonable noise.

(b) Each application for a tunneling permit shall contain such information as the commissioner may require to determine whether tunneling activities and the devices operated therein will be undertaken in compliance with the provisions of this code, including but not limited to:

(1) The types and operating characteristics of the devices employed in such tunneling;

(2) A detailed description of proposed tunneling; and

(3) The proposed means for the prevention of unreasonable noise.

(c) Information concerning secret processes which may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a departmental court proceeding or departmental or board hearing, the information is relevant to the proceeding or hearing.

§ 24-248 Standards for granting operating certificates and tunneling permits. (a) No operating certificate shall be granted unless the applicant shows to the satisfaction of the commissioner that:

(1) The device will be operated without causing a violation of the provisions of this code; and

(2) The device incorporates advances in the art of noise control developed for the kind and level of noise emitted by the applicant's device.

(b) No tunneling permit shall be granted unless the applicant shows to the satisfaction of the commissioner that:

CHAPTER 2—NOISE CONTROL

§ 24-256

(d) The commissioner shall consider the applicant's answer to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to answer or request an extension of time within sixty days after service of the notice of disapproval or a notice of violation shall be deemed a denial of the application.

(e) The commissioner may grant a temporary operating certificate or tunneling permit for a period not to exceed sixty days upon receipt of an application for the granting or renewal of an operating certificate and may, at his or her discretion, renew a temporary operating certificate or tunneling permit for an additional period not to exceed sixty days.

§ 24-251 Conditions of certificates or tunneling permits to be observed. The holder of a certificate or of a tunneling permit shall comply with the conditions and terms contained in his or her certificate or tunneling permit as well as all applicable provisions of this code.

§ 24-252 Suspension or revocation of certificates or tunneling permits.

(a) The commissioner shall suspend or revoke a tunneling permit or certificate when ordered to do so by the board pursuant to subchapter eight of this chapter of this code.

(b) Suspension or revocation of a certificate or tunneling permit shall become final five days after service of notice, exclusive of the day of service, on the holder of the certificate or tunneling permit.

§ 24-253 Surrender of certificates or tunneling permits. A certificate or tunneling permit which has been cancelled or revoked pursuant to this code shall be surrendered forthwith to the commissioner.

§ 24-254 Transfer of certificates. Any purported or attempted transfer of a certificate automatically revokes the certificate, except that upon a conveyance of the premises in which the device is located a certificate may be transferred to a person other than the person named in the certificate.

§ 24-255 Operating certificate or tunneling permit fees. (a) A person applying for an operating certificate, or a renewal of an operating certificate shall pay a fee of thirty dollars.

(b) A person applying for a tunneling permit shall pay a fee of two hundred and fifty dollars.

§ 24-256 Departmental publication fees. The department may charge for a copy of its publications a fee in an amount not to exceed the unit cost of the preparation and distribution of the publication.

Subchapter 8

Enforcement

§ 24-257	Powers of the board.
§ 24-258	The board.
§ 24-259	Notice of violation.
§ 24-260	Written response.
§ 24-261	Citizen's complaint.
§ 24-262	Settlement of proceedings.
§ 24-263	Hearings.
§ 24-264	Default; vacating a default order.
§ 24-265	Hearing officer's decision.
§ 24-266	Board decision and order.
§ 24-267	Compliance with board decisions; orders and civil penalties.
§ 24-268	Procedural rules.
§ 24-269	Criminal penalties.

§ 24-257 Powers of the board. (a) The board, in addition to other duties assigned to it by law, shall have the power to conduct hearings pursuant to this subchapter and, by the issuance of a subpoena, compel the attendance of witnesses and the production of any books, papers or other things relating to the matter under investigation.

(b) The board may, upon notice pursuant to section 24-259 of this code, and after a hearing pursuant to section 24-263 of this code, or in default thereof pursuant to section 24-264 of this code:

(1) Order the commissioner to revoke or suspend a certificate or tunneling permit issued pursuant to this code for any device or activity where such device or activity causes, or is maintained or operated so as to cause a violation of any provision of this code or order or regulation promulgated by the commissioner or the board;

(2) Order the owner of any device which causes or is maintained or operated so as to cause a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board, to install any apparatus which can reasonably be expected to correct the violation, or to repair, properly maintain, replace or alter such device in a manner which can reasonably be expected to correct the violation;

(3) Seal any device which causes or is maintained or operated so as to cause a violation of any provision of this code or order or regulation promulgated by the commissioner or the board, except as provided in subdivision (c) of this section;

(4) Order any person to cease and desist from any activity which causes or is conducted so as to cause a violation of any provision of this code or any

CHAPTER 2—NOISE CONTROL

§ 24-257

except that this \$880-\$2,800 civil penalty shall apply only to a second violation by a person operating such motor vehicles and except that this \$1,320-\$4,200 civil penalty shall apply only to a third or subsequent violation by a person operating such motor vehicles . . .

1,400 440 2,800 880 4,200 1,320

24-232, except that this \$130-\$525 civil penalty shall apply only to a violation by a person operating motor vehicles listed in subdivision three of Column I, and subdivision three of Column II, of Table 1 and except that this \$260-\$1,050 civil penalty shall apply only to a second violation by a person operating such motor vehicles and except that this \$390-\$1,575 civil penalty shall apply only to a third or subsequent violation by a person operating such motor vehicles

525 130 1,050 260 1,575 390

24-234 2,625 660 5,250 1,320 7,875 1,980

24-236 1,400 440 2,800 880 4,200 1,320

24-237, except that this \$440-\$1,400 civil penalty shall apply only to a violation of section 24-237 with respect to a circulation device with a rated capacity equal to or greater than fifty thousand British thermal units per hour or its equivalent and except that this \$880-\$2,800 civil penalty shall apply only to a second violation of section 24-237 with respect to such a circulation device and except that this \$1,320-\$4,200 civil penalty shall apply only to a third or subsequent

CHAPTER 2—NOISE CONTROL

§ 24-257

(7) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on a device pursuant to this section.

(8) Impose an additional civil penalty in the amount of twenty-five percent of that which would otherwise be imposed for each twelve decibels by which the sound or noise level measured exceeds the maximum sound level as contained in subchapters five and six of this chapter.

(9) Impose an additional civil penalty in the amount of ten percent of the penalty originally imposed, for late payment of penalty for each month, or part thereof, that the penalty payment is in arrears. In no event shall the total additional civil penalty exceed the maximum set forth in the table of civil penalties, or as modified pursuant to paragraph eight of this subdivision or paragraph ten of this subdivision, or both.

(10) Order any person to be classified as a persistent violator if such person is found to be in violation of this code and has also on one or more prior occasions within the preceding five years been found to be in violation of this code, where such repeated violations evidence substantial *[sic]*¹ disregard thereof. If a person is classified as a persistent violator, the board shall in each instance double the amount of the penalty which it would otherwise impose pursuant to paragraph five of this subdivision. Such double penalties shall be imposed for violations which the board finds a person committed pursuant to the same proceeding at which it classified such person as a persistent violator and for all violations committed within two years immediately following such classification, after which *[sic]*² such classification shall terminate. However, if at the end of such two year period such person is still in violation of this code because of a failure to take or complete a corrective action as required by the board, such classification shall continue until such time as such person is no longer in violation of this code because of such failure, at which time such classification shall cease. Thereafter, the board may again classify such person as a persistent violator, on the same basis it used originally.

(c) The board may, upon notice pursuant to section 24-259 of this code:

(1) order any person to cease and desist from the operation of any listed device without a certificate as required by section 24-245 of this code and the board may also seal such device;

(2) order any person to cease and desist from tunneling without a tunneling permit as required by section 24-245 of this code and the board may also seal any device used in such tunneling;

(3) order any person not in possession of a variance issued pursuant to subdivision (b) of section 24-224 of this code to cease and desist from construction activities other than during the permissible hours specified in subdivision (a) of section 24-224 of this code and the board may also seal any device used in such construction activities;

1. Probably should be "substantial".

2. Probably should be "which".

CHAPTER 2—NOISE CONTROL

§ 24-259

(e) If an order of the board issued pursuant to subdivisions (b) and (c) of this section provides for a period of time during which a person subject to the order is permitted to correct a violation, the board may require the respondent to post a performance bond or other security with the department in a form and amount sufficient to assure the correction of such violation within the prescribed time. In the event of a failure to meet the schedule prescribed by the board, the sum named in the bond or other security shall be forfeited and shall be paid to the commissioner.

(f) (1) The board may order any person to cease and desist from an activity which it reasonably believes causes unreasonable noise which creates imminent peril to the public health and well being, or to cease and desist from an activity which it reasonably believes constitutes a wilful or continued violation of any provision of this code or order or regulation, promulgated by the commissioner or board. Such order shall be effective upon service thereof. Any party affected by such an order may request a hearing on written notice, and he or she shall be afforded a hearing, within twenty-four hours after service of such request, pursuant to section 24-263 of this code. If such an accelerated hearing is not requested, then a hearing shall be afforded within ten days of the issuance of the order. The board shall issue its final decision and order thereon within three days from the conclusion of a hearing held pursuant to this subdivision.

(2) The board may rescind in whole or in part a variance issued by an agency of the city of New York pursuant to subdivision (b) of section 24-224 of this code. Such order shall be effective upon service thereof upon such agency and upon the person to whom such variance was issued.

§ 24-258 The board. (a) The board shall be convened by the chairperson, or in the chairperson's absence the assistant commissioner of air resources, or at the request of any three members thereof.

(b) If a member of the board has presided over the initial hearing, he or she shall not be disqualified from reviewing the hearing.

(c) Five members of the board, at least two of whom shall not be city officials, shall constitute a quorum.

§ 24-259 Notice of violation. (a) Notice, required by this chapter, shall be given by issuance of a notice of violation.

(b) Whenever the commissioner has reasonable cause to believe that a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board may exist, he or she may cause to have a notice of violation issued and served on:

- (1) The person in violation; or
- (2) An owner with an equity interest in the device in violation, if any; or

CHAPTER 2—NOISE CONTROL

§ 24-261

(e) Failure of the respondent to serve a written response within the time provided shall be deemed to constitute a waiver of his or her right to appear and contest the allegations in the notice.

§ 24-261 Citizen's complaint. (a) Any person other than personnel of the department and employees of the city of New York authorized by law to serve summonses for violation of the code may serve upon the department a complaint in a form prescribed by the commissioner alleging that a person has violated a provision of this code set forth in table VI, below, or an order or regulation promulgated under such provision together with evidence of such violation.

Table VI

**Violation related to
section or subdivision
and order or regulation
thereunder**

24-208

24-216

24-220 (b)

24-224

24-232, except that the provisions of this section 24-261 shall apply only to violations by persons operating motor vehicles listed in subdivisions one and two of column I, and subdivisions one and two of column II of Table 1. 24-234 24-236 24-237, except that the provisions of this section 24-261 shall apply only to a violation by a person operating a circulation device with a rated capacity in excess of fifty thousand British thermal units per hour or its equivalent.

24-238

24-240

24-241

24-244

24-245

(b) A person who has served a complaint pursuant to subdivision (a) of this section may serve upon the person allegedly in violation and upon the board a notice of violation in a form prescribed by the board, if within thirty days from service of such complaint:

(1) The department has failed to serve a notice of violation, pursuant to section 24-259 of this code, for the violation alleged in a complaint pursuant to subdivision (a) of this section; or

(2) The department fails to serve a written notice upon the complainant of its determination that his or her complaint is frivolous or duplicitous.

CHAPTER 2—NOISE CONTROL

§ 24-266

(3) Neglected to proceed in a manner ordered by the board.

(b) Within sixty days of a decision and order of the board issued pursuant to paragraph two of subdivision (c) of section 24-266 of this subchapter, the respondent may request the board to grant a stay of such order of the board and schedule a hearing. If the respondent has shown good cause and a meritorious defense, the board may grant such a request and hold a hearing pursuant to section 24-263 of this code. At the conclusion of the hearing, the board may adopt, amend or rescind its decision and order.

§ 24-265 Hearing officer's decision. (a) At the conclusion of the hearing, the hearing officer or member of the board conducting the hearing shall prepare a decision stating findings of fact and conclusions, as well as reasons for his or her determination on all material issues, and making recommendations as to action which should be taken in the matter.

(b) The hearing officer or member of the board conducting the hearing shall file his or her decision with the board and send copies by mail to the parties. Any party may file exceptions with the board within twenty days after service of such decision. If no exceptions have been filed within the described time, the recommendations of the hearing officer or member of the board conducting the hearing shall automatically become the decision of the board and shall constitute its findings, conclusions and order.

(c) At the conclusion of a hearing conducted by the board, the board shall issue its decision and order. The decision of the board shall conform to the requirements of subdivisions (b) and (c) of section 24-266 of this code.

§ 24-266 Board decision and order. (a) If any party files exceptions to the decision of the hearing officer or member of the board conducting a hearing within the prescribed time the board shall review the record and issue its decision and order in which it may adopt, modify or reject the findings, conclusions and recommendations of the hearing officer or member of the board who conducted the hearing.

(b) The decision of the board shall contain findings of fact, conclusions of law and reasons for the decision on all material issues raised, and an order either dismissing the allegations of the notice of violation or sustaining them in whole or in part.

(c) The board may exercise one or more of its powers pursuant to section 24-257 of this code, as it deems appropriate if:

(1) The allegations in the notice of violation are sustained in whole or in part;

(2) The respondent is in default under section 24-264 of this code.

(d) The decision and order of the board shall be its final determination. A judicial proceeding must be commenced within two months after the service of such decision and order.

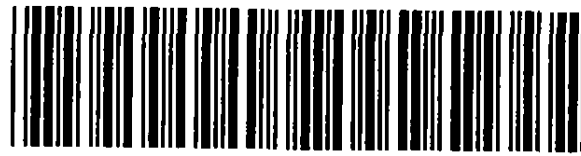
CHAPTER 2—NOISE CONTROL

§ 24-269

(d) The failure of any person or corporation against whom an action has been brought to collect a civil penalty pursuant to subdivision (b) of section 24-267 of this code, who has been found liable by a court for such civil penalty and who does not pay such penalty after the judgment of such becomes final, shall be deemed guilty of a willful failure to pay a civil penalty.

(e) Any person convicted of violating any of the provisions of this code or any regulation of the board not otherwise provided for by this section shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars for the first offense, or by imprisonment for twenty days, or both; and by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for not more than thirty days, or both, for a second offense; and by a fine of not less than four hundred dollars nor more than five thousand dollars, or by imprisonment for not more than four months or both for a third or subsequent offense.

(f) Twenty-five percent of any fine that is imposed pursuant to this section may be paid to the person or persons giving information which shall lead to conviction.



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Rudolph W. Giuliani
Deputy Mayors

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