

Chapter 189

NOISE

ARTICLE I General Provisions

§ 189-1.	Short title.	§ 189-5.	Noise measurement.
§ 189-2.	Findings and policy; general prohibitions; presumption of custody.	§ 189-6.	Noise disturbance.
§ 189-3.	Definitions.	§ 189-7.	Sound amplification equipment.
§ 189-4.	Maximum noise levels.	§ 189-8.	Noise suppression devices.
		§ 189-9.	Inspections.
		§ 189-10.	Exemptions.
		§ 189-11.	Violations and penalties.
		§ 189-12.	Construal of provisions.

[HISTORY: Adopted by the Commissioners of the City of Rehoboth Beach as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 88.

Restaurants — See Ch. 215.

Automobiles, vehicles and traffic — See Ch. 92.

Zoning — See Ch. 270.

Offenses against public peace and safety — See Ch. 198, Art. IV.

ARTICLE I
General Provisions¹
[Adopted 8-13-1993 by Ord. No. 893-1]

§ 189-1. Short title.

This article shall be known and may be cited as the "Noise Control Ordinance of Rehoboth Beach."

§ 189-2. Findings and policy; general prohibitions; presumption of custody.

- A. The making of excessive sound is a serious hazard to the public health, welfare, safety and the quality of life; and the people have a right to and should be ensured an environment free from excessive sound. It is, therefore, the policy of the City of Rehoboth Beach to prevent excessive sound of any type that may endanger the health, welfare or safety of the citizens, the businesses and tourists, or jeopardize the value of property and erode the integrity of the environment of the city.
- B. It shall be unlawful for any person to make, continue to make, permit or cause to be made or continued, any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities. Furthermore, it shall be unlawful for any person who has custody and control of the premises to allow or permit another person to make, continue or permit to be made or continued any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities within the limits of the city.
- C. For the purpose of this article, the following persons shall be presumed to be in custody and control:
 - (1) An individual owner or owners where the premises are owner-occupied.
 - (2) The tenant where the premises are leased.
 - (3) A manager or person in charge of the premises.
 - (4) The operator of any vehicle.

§ 189-3. Definitions.

As used in this article, the following terms shall have the meanings indicates:

ACOUSTICAL TERMINOLOGY — Shall be that contained in ANSI S1-1 Acoustical Terminology (1971).

AMBIENT NOISE — The all-encompassing background noise associated with a given environment without the sound contribution of the specific source in questions.

ANSI — The American National Standards Institute or its successor bodies.

CONTINUOUS NOISE — A noise whose intensity remains essentially constant during the period of observation. "Continuous noise," for measurement purposes, shall be defined as noise which is measured by the slow response setting of a sound level meter.

DAYTIME — The local time of day between the hours of 8:00 a.m. and 11:00 p.m. year round.

1. Editor's Note: Former Art. I, Sound Trucks and Amplification Equipment, adopted 11-8-1974 as Ch. 11, Art. 11, of the 1974 Code, was repealed 4-17-2015 by Ord. No. 0415-02. This ordinance also renumbered former Art. II as Art. I.

DECIBEL (db) — A standard unit for measuring the sound pressure level. The unit of sound magnitude equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure being measured to a reference sound pressure, 20 micronewtons per square meter (20 micropascals).**[Amended 4-17-2015 by Ord. No. 0415-02]**

DECIBEL A-WEIGHTED (dBA) — The sound level, in decibels, measured with the sound level meter using the A-weighted network or scale as specified in ANSI S1.4-1974 Specification for Sound Level Meters, or its latest version.²

EQUIVALENT SOUND LEVEL (A-WEIGHTED) — The constant sound level that, in a given situation and time period (x) conveys the sound energy as the actual time-varying A-weighted sound. Designated $Leq(x)$ dB(A).**[Added 4-17-2015 by Ord. No. 0415-02]**

IMPULSIVE NOISE — Noise characterized by brief excursions (usually less than one second) of sound pressure which significantly exceeds the ambient environmental sound pressure.

MOBILE SOURCE — Any vehicle, self-propelled or not, which is capable of emitting noise.

NIGHTTIME — Those times of day excluded from the definition of daytime.

NOISE — The intensity, frequency, duration and character of sounds from a single source or number of sources. "Noise" includes the amplified and unamplified human voice, vibrations of audible and subaudible frequency, including but not limited to, the bass sound from amplified music, without limitations.**[Amended 4-17-2015 by Ord. No. 0415-02]**

NOISE DISTURBANCE — Any sound which:**[Amended 4-17-2015 by Ord. No. 0415-02]**

- A. Endangers or injures the safety or health of humans or animals; or
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Jeopardizes the value of property and erodes the integrity of the environment; or
- D. Interferes with the peaceful enjoyment of neighboring properties; or
- E. Is in excess of the allowable noise levels established in § 189-4.

NOISE, PLAINLY AUDIBLE — Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to, spoken speech or comprehensible musical rhythms, including bass tones with a repetitive and impulsive sound.**[Added 4-17-2015 by Ord. No. 0415-02]**

PLAINLY AUDIBLE STANDARD — A method used to identify a noise disturbance where a noise is plainly audible at a location not on the emitting property.**[Added 4-17-2015 by Ord. No. 0415-02]**

SOUND — Any auditory effect that is distinctive or characteristic of its source. "Sound," as used in this article, shall encompass the definition of noise herein.

SOUND TRUCK — A truck or other vehicle used for broadcasting.**[Added 4-17-2015 by Ord. No. 0415-02]**

STATIONARY SOURCE — Any equipment or activity associated with permitted land uses which are capable of generating noise.**[Amended 4-17-2015 by Ord. No. 0415-02]**

ZONING DISTRICT CLASSIFICATION — The districts set forth and established in Chapter 270,

2. Editor's Note: The former definition of "holidays," which immediately followed this definition, was repealed 4-17-2015 by Ord. No. 0415-02.

Zoning, of the Municipal Code of Rehoboth Beach, Delaware, as amended.

§ 189-4. Maximum noise levels. [Amended 3-11-1994 by Ord. No. 394-1; 8-12-1994 by Ord. No. 894-1]

No person shall cause, suffer, allow or permit the operation of any source of noise on a particular category of property or on any public space or right-of-way in such a manner as to create a noise level that exceeds the particular noise-level limits set forth in Table 1 below.

A. Stationary sources.

- (1) Noise levels from stationary sources and mobile sources while stationary shall not exceed the noise levels set forth in Table 1 below for each of the zoning districts listed there during the time of day indicated. Where two or more zoning districts are involved, the maximum noise level for the more restrictive zoning district shall apply.
- (2) Noise levels from small power equipment, associated with residential and commercial land uses, as well as for landscaping equipment such as lawn mowers, trimmers and blowers, used intermittently, shall not exceed 74 dBA. Any small power equipment which exceeds permissible noise levels established in Subsection A(1) may only be operated during the hours of 8:00 a.m. to 8:00 p.m. **[Amended 4-17-2015 by Ord. No. 0415-02]**
- (3) Notwithstanding anything to the contrary herein, during the hours designated as nighttime in § 189-3 herein, in residentially and commercially zoned districts, the noise levels from stationary sources and mobile sources while stationary shall not be plainly audible within any receiving dwelling unit, including any dwelling unit in a multiple dwelling structure. **[Amended 4-17-2015 by Ord. No. 0415-02]**
- (4) Noise measurements made to determine compliance with Subsection A(1) and (2) shall be made not less than four feet above the ground and not closer to the noise source than the boundary line of the property on which the noise source is located.

B. Construction noise.

- (1) All feasible procedures shall be undertaken to minimize noise generated by construction activities.
- (2) In no instance shall noise levels originating from construction sites exceed 94 dBA. Measurements are to be taken in accordance with the procedures established in Subsection A(4). This section shall not apply to emergency repairs to public utilities.
- (3) No construction shall be carried on between the hours of 5:00 p.m., prevailing time, and 8:00 a.m. of the following morning, prevailing time. No construction shall take place on any Saturday, Sunday or the following State of Delaware holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; provided, however, that construction shall be permitted on Saturdays (except where a Saturday falls on a holiday) between the hours of 9:00 a.m. and 5:00 p.m., from November 1 to April 30; further provided, however, that nothing contained herein shall prevent any homeowner from working within his own property boundaries, provided that such work is done by himself and is used exclusively by him or his family or guests. Such privilege does not convey the right to violate any of the provisions of the Building Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor. **[Added 4-17-2015 by Ord. No.**

0415-02]

- C. No commercial establishment required to be licensed by the city shall provide entertainment which generates sound which is audible and/or penetrates beyond the property boundaries of the commercial establishment, between the hours of 1:30 a.m. to the following 8:00 a.m. each day. Entertainment includes without limitation the playing of any television set, radio, tape player, phonograph, musical instrument, game or other device which produces sound as well as sound emitted by live entertainers. This section shall in no manner modify other provisions of this article dealing with the maximum permissible noise levels for residential or commercial districts.

**MAXIMUM PERMISSIBLE NOISE LEVELS
FROM STATIONARY SOURCES
(measured at property line)**

Zoning District Classification	Time of Day	Continuous Noise (dBA)	Impulsive Noise (dBA)	Continuous Octave Band	
				Center Frequency (Hz)	dB
All commercial districts	Daytime	70		31.5	85
				63	84
	Nighttime	55	120	125	79
				250	74
				500	68
				1,000	62
				2,000	57
				4,000	53
				8,000	50
All residential districts	Daytime	65		31.5	80
				63	79
	Nighttime	55	100	125	74
				250	69
				500	63
				1,000	57
				2,000	52
				4,000	48
				8,000	45

§ 189-5. Noise measurement. [Added 4-17-2015 by Ord. No. 0415-02]

- A. A decibel meter shall be used to determine noise disturbances when the sound source is emitted from a commercially zoned property whether the receiving property is in a commercial or residential zone. The reading shall be taken no closer than the property line of the sound source. Exceeding noise levels established in § 189-4, Maximum noise levels, constitutes a noise disturbance.
- B. The plainly audible standard shall be used to determine noise disturbances when the sound source is emitted from a residentially zoned property. Noise that is plainly audible constitutes a noise disturbance.
- C. Noise measurements made to determine compliance with Subsections A and B shall be made not less than four feet above the ground and not closer than the property line of the property on which the noise source is located.

§ 189-6. Noise disturbance. [Amended 5-12-1995 by Ord. No. 595-3; 4-21-2003 by Ord. No. 0503-5; 4-17-2015 by Ord. No. 0415-02]

A. Commercial zoning districts.

- (1) No person shall use any machinery or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting the attention of the public to any building, structure or activity except that a restaurant may use a sound system to notify patrons waiting outside that their table is ready, provided that such sound does not create a noise disturbance as defined at § 189-3 herein.
- (2) No person shall play or cause to be generated any music after 11:00 p.m. either:
 - (a) From a patio; or
 - (b) From internal speakers in a premises that can be heard on the premises' patio. The term "patio," as used in this section, includes both patios as defined in Chapter 270, Zoning, and other patios used in connection with a restaurant.
- (3) No commercial establishment required to be licensed by the City shall provide entertainment which generates sound which is audible and/or penetrates beyond the property boundaries of the commercial establishment, between the hours of 1:30 a.m. to the following 8:00 a.m. each day. Entertainment includes without limitation the playing of any television set, radio, tape player, phonograph, musical instrument, game or other device which produces sound as well as sound emitted by live entertainers. This section shall in no manner modify other provisions of this article dealing with the maximum permissible noise levels for residential or commercial districts.

B. Residential zoning districts.

- (1) In addition to other regulations contained in this chapter, it shall be unlawful for any person to make, continue or cause to be made or allow at any pool any loud or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. In the operation of a pool, or surrounding patios or decks, the use or permitting the use or operation of any radio, digital music device, musical instrument, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the person or persons who are in such pool premises shall be unlawful.
- (2) In any residential district no radio, digital music device, musical instrument or other machine or

device for producing or reproducing sound shall be used outdoors after 11:00 p.m. or prior to 8:00 a.m.

- C. All zoning districts.
- (1) If generally creating a racket, such as yelling, shouting, hooting or whistling on public streets and emitting from residential and commercial properties between the hours of 11:00 p.m. and 8:00 a.m. so as to annoy and disturb the quiet comfort or repose of persons in adjacent or adjoining premises. noise shall be plainly audible without the use of a noise meter, such noise shall be considered a noise disturbance.
 - (2) No person shall use any musical instrument upon public streets during the nighttime. This section does not apply to persons participating in duly licensed parades or persons duly authorized to engage in such conduct.
 - (3) No person shall play any television, radio, digital music device or any musical instrument or other device for the production of sound on a public beach, the boardwalk, park, sidewalk, streets or other public ways in such manner or with such volume as to annoy or disturb the quiet, comfort or repose of reasonable persons or at a louder volume than is necessary for the convenient hearing of the individual playing the device.
 - (4) No person shall sell anything by outcry. The selling by outcry of merchandise, food and beverages at City-licensed entertainment events is excluded.
 - (5) No person shall use any machinery or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting the attention of the public to any building, structure or activity.

§ 189-7. Sound amplification equipment. [Added 4-17-2015 by Ord. No. 0415-02]

- A. Sound trucks are prohibited.
- B. Sound-amplifying equipment; permit required; unreasonable use prohibited.
- (1) No person shall operate or use any sound-amplifying equipment without first obtaining a permit from the City Manager. No permittee shall use any sound-amplifying equipment in any manner and at any time so as to unreasonably disturb the peace and quiet of any neighborhood or of the citizens thereof.
 - (2) Any person operating or causing to be operated any sound-amplifying equipment in violation of the sound-amplifying equipment provisions of this section shall have his permit revoked.
- C. Application for use of sound-amplifying equipment; permit content. Each applicant for a permit to use sound-amplifying equipment shall, in writing and on forms required by the City Manager, submit to the City Manager the following information:
- (1) Name and address of the applicant.
 - (2) Name and address of the person having direct charge of the sound-amplifying equipment.
 - (3) Purpose for which the sound-amplifying equipment shall be used.
 - (4) General statement as to the areas of the City in which the sound-amplifying equipment shall be used.

- (5) General statement as to the times the sound-amplifying equipment shall be used.
 - (6) General description of the sound-amplifying equipment that shall be used.
 - (7) Any other information which the City Manager may require in order to reasonably enforce the provision of this article relating to sound-amplifying equipment.
- D. Grant of permit; duration. If the City Manager determines that granting the permit required by § 189-2 shall not unreasonably disturb the peace and quiet of any neighborhood or of the citizens thereof, he shall issue to the applicant a permit for the use of the sound-amplifying equipment described in the permit application, which shall be used during the time and in that manner set forth in the permit application and in the sound-amplifying equipment provisions of this article.

§ 189-8. Noise suppression devices.

- A. No person shall cause, suffer or allow or permit the removal, disconnection or disabling of any noise suppression device or system which has been installed on any noise source pursuant to any of the following:
- (1) Pursuant to any federal or state law or regulation.
 - (2) As a requirement for obtaining a permit to construct, modify or install such noise source.
- B. No person shall defeat the designed purpose of any noise suppression system or device by installing therein or thereon any part or component which does not meet the minimum designed specifications for that system or device.
- C. No noise source shall be operated with its noise suppression system or device removed or otherwise rendered inoperable.
- D. This section does not apply to licensed motor vehicles used exclusively for emergency purposes.

§ 189-9. Inspections.

- A. The City Manager is authorized and directed to make or cause to be made inspections in response to complaints that an alleged violation of the provisions of this article or of applicable rules or regulations adopted pursuant thereto has been or is being committed, or when such inspection is part of a systematic survey program.
- B. The City Manager shall have authority, with the consent of the owner, occupant, operator or agent, to enter and inspect all premises subject to the provisions of this article for the purpose of determining whether there is compliance with the requirements of this article.
- C. If any owner, occupier, operator or agent fails to allow or refuses free access and entry to the premises where a noise source is located, or any part thereof, with respect to which an inspection authorized by this article is sought to be made, the City Manager may, upon a showing that probable cause exists for the inspection, petition and obtain an order from a court of competent jurisdiction authorizing such inspection.
- D. All evidence which may be discovered or obtained in the course of an inspection made pursuant to this section shall not be disclosed except as may be necessary in the judgment of the City Manager for the proper and effective administration and enforcement of the provisions of this article and regulations issued pursuant thereto.

§ 189-10. Exemptions.

- A. The provisions of this article shall not apply to:
- (1) Emergencies, either as an alert or in performance of emergency work.
 - (2) Municipally sponsored or approved celebrations or events.
 - (3) Use of bells, chimes or sound amplifiers by existing and future churches engaged in religious activities.
 - (4) City activities and duties.
 - (5) Audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger are specifically exempt from the provisions of this article.
- B. Amusement parks and amusement arcades existing on the effective date of this article are exempt from this article, except from 12:00 midnight to 10:00 a.m. the following day. This article shall apply to amusement parks and amusement arcades between midnight and 10:00 a.m. the following day. This exemption shall not apply to any amusement park or arcade which expands its size or changes the nature of the rides or amusements which it operates so as to result in an increase of the noise level over the noise level in existence on the date of this article.

§ 189-11. Violations and penalties. [Amended 4-17-2015 by Ord. No. 0415-02]

- A. All violations of this article need not be complaint based. Noise disturbances may be identified by the public, police officers, or City staff. Any police officer or City staff is authorized to investigate for the purposes of enforcing this provision upon suspecting or being notified that a noise disturbance is occurring.
- B. Any investigating officer may issue a citation to an offender under this article.
- C. The investigating officer may issue a warning if in his or her judgment a warning is sufficient to cease the violation.
- D. Any person or persons charged with a violation of this chapter for the first offense shall be subject to a fine of at least \$200 and not to exceed \$250. For each subsequent offense such person shall be subject to a fine of at least \$250 and not to exceed \$500 or by imprisonment for not more than 30 days, or by both fine and imprisonment.
- E. The imposition of one penalty for any violation shall not excuse the violation nor permit it to continue.
- F. Nothing in this article shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property and to maintain any action or other appropriate proceedings therefor.

§ 189-12. Construal of provisions.

In any case where a provision of this article is found to be in conflict with any other provision of the Municipal Code of Rehoboth Beach, Delaware, 1974, existing on the effective date of this article, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the public shall prevail. In any case where a provision of this article is found to be in conflict with any other provision of the Municipal Code of Rehoboth Beach, Delaware, 1974, existing on the effective

date of this article which established a less stringent standard for the promotion and protection of the health and safety of the public, the provisions of this article shall be deemed to prevail, and any such provisions are hereby declared to be repealed to the extent that they may be found in conflict with the provisions of this article.