



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 050749

Introduced September 15, 2005

Councilmembers DiCicco, Krajewski and Kenney

**Referred to the
Committee on Licenses and Inspections**

AN ORDINANCE

Amending Title 10 of The Philadelphia Code, entitled "Regulation of Individual Conduct and Activity," including by amending Chapter 10-400 of the Philadelphia Code, entitled "Noise and Excessive Vibration," by amending definitions; establishing new rules regarding prohibited conduct; providing enforcement authority to City departments; making technical changes and changes to related provisions; and superseding certain Health Department regulations; all under certain terms and conditions.

WHEREAS, Chapter 10-400 of The Philadelphia Code, entitled "Noise and Excessive Vibration," and the extensive "Noise and Excessive Vibration Regulations" of the Department of Public Health, have evolved over many years, with many amendments; and

WHEREAS, those provisions are in need of consolidation, modification and clarification, in order to provide clearer rules for the citizens of Philadelphia to follow and the City to enforce regarding the maximum volumes of sound people and businesses are permitted to make in various situations; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 10-402 of The Philadelphia Code is deleted in its entirety and replaced with the following:

§10-402. *Definitions.*

The following definitions shall apply to this Chapter and the Regulations adopted hereunder:

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(1) *Background sound level.* The measured sound level in the area, exclusive of extraneous sounds and the sound contribution of the specific source in question.

(2) *Board.* The Board of Health.

(3) *Construction.* Site preparation, excavation, filling or grading or the assembly, erection, repair, alteration or demolition of any structure or part of the right-of-way.

(4) *Decibel (dB).* A unit for measuring the volume of sound equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure which is 20 micropascals (20 micronewtons per square meter).

(5) *Department.* The Department of Public Health, Health Commissioner or any authorized representative thereof.

(6) *Emergency and Public Works Construction.* Construction necessary to protect health and safety, construction by public utilities, and construction on streets, bridges and sidewalks for public works purposes or such other construction activity specifically designated by the City as emergency construction after consultation with the Health Department.

(7) *Extraneous sound.* A sound the level of which does not remain generally constant during measurement.

(8) *Person.* Any individual, natural person, syndicate, association, partnership, firm, corporation, institution, agency, authority, department, bureau or instrumentality of federal, state or local government or other entity recognized by law as a subject of rights and duties.

(9) *Property Boundary.* In the case of a single-family dwelling, or a property used solely for non-residential purposes, the legal property line. In the case of a structure containing two-family, multi-family or other non-single-family residential dwellings, the legal property line and any partition between separately occupied units within the property.

(10) *Public Right-of-Way.* Property to which the public has a legal right of access including, but not limited to, public sidewalks and streets and public parks, but not including buildings.

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(11) *Regular Construction.* Construction between the hours of 7 a.m. and 8 p.m., Monday through Friday, or between the hours of 8 a.m. and 8 p.m. on weekends and legal, national or state holidays.

(12) *Siren.* A device manually or electrically operated for producing a penetrating warning sound.

(13) *Residential property.* The units in any property in which people reside on a permanent or semi-permanent basis.

(14) *Sound.* An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium.

(15) *Sound Level Meter.* An instrument used to measure sound pressure levels.

(16) *Unamplified Human Voice.* Human vocal sound that is not amplified by any mechanical or electronic means.

(17) *Vibration.* An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

SECTION 2. Section 10-403 of The Philadelphia Code is deleted in its entirety and replaced with the following:

§10-403. Prohibited Conduct.

(1) *Sound Near Protected Facilities.* No person shall create or cause, or permit the creation of, sound that exceeds 3 decibels above background level measured at the property boundary of any hospital, nursing home, house of worship, courthouse, school, library or day care facility. This provision shall apply, notwithstanding the potential applicability of a less restrictive standard in this Chapter.

(2) *Sound From Residential Properties.* No person shall create or cause, or permit the creation of, sound originating from a residential property audible at a distance greater than one hundred feet from the property boundary or that exceeds 3 decibels above background level measured beyond the property boundary except for the following:

(a) *the operation of lawn maintenance equipment between the hours of 8 a.m. and 8 p.m., provided the equipment is functioning within manufacturer's*

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specifications and with sound-reducing equipment in use and in proper operating condition;

(b) sound originating from an air conditioning or refrigeration unit or system; sound from such a source shall not exceed:

(i) 5 decibels above background level measured at the property boundary of the nearest occupied residential property;

(ii) 10 decibels above background level measured at the property boundary of the nearest occupied non-residential property;

(c) sound from animals, to which the restrictions of paragraph (6) apply; and

(d) the unamplified human voice.

(3) Sound From Non-Residential Properties. No person shall create or cause, or permit the creation of, sound originating from a property used for a non-residential purpose that exceeds:

(a) 5 decibels above background level measured at the property boundary of the nearest occupied residential property; or

(b) 10 decibels above background level measured at the property boundary of the nearest occupied non-residential property;

(4) Special Assembly Occupancies. No person shall create or cause, or permit the creation of, sound originating from a special assembly occupancy, as defined under Subcode B (The Building Code) of Title 4 of this Code, audible at a distance greater than one hundred feet from the property boundary of such special assembly occupancy. This subparagraph shall apply regardless whether it is more restrictive than the limitations imposed by paragraph (3) of this section.

(5) Sound From Concert Venues and Stadia. No person shall create or cause, or permit the creation of, sound originating from a concert venue or stadium that contributes to a total sound level, exclusive of extraneous sounds, that exceeds 70 decibels measured at the property boundary of the nearest occupied residential property.

(6) Animal Sounds. No person shall cause or permit more than 5 expressions of sound from one or more animals (such as individual barks from one or more dogs)

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during a five minute period from any property audible at a distance greater than 50 feet from the property boundary. This shall not apply to zoos, veterinary hospitals or clinics, animal shelters, a circus or other licensed entertainment venue, or a facility used for educational or scientific purposes, such as schools and laboratories.

(7) *Sound Created In The Right-Of-Way.* No person shall create or cause, or permit the creation of, sound in the public right-of-way:

(a) *abutting a residential property by amplification from a radio, tape player or similar device between the hours of 9 p.m. and 8 a.m., unless used in connection with an earplug or earphones which will prevent significant emanation of sound from such device; or*

(b) *that exceeds the levels permissible for sound emanating from property directly abutting such portion of the right-of-way.*

(c) *The limitations of this paragraph shall not apply to a Demonstration for which a permit has been obtained pursuant to the City's "Regulation Governing Permits For Demonstrations On City Property." The Department of Health may adopt, by regulation, additional limitations applicable to public demonstrations and sound-making activity in the right-of-way.*

(8) *Exception for Construction Activity.* The restrictions of paragraphs (1) through (5) and 7(b) do not apply to regular construction and emergency and public works construction, provided that all equipment used in connection with such construction is maintained and operated in compliance with all applicable law.

(9) *Amplified devices on public transportation.* No radio, tape player or other similar amplified device may be used on a public transportation vehicle unless the user of the device utilizes an earplug or earphones that prevent anything other than minimal sound to emanate beyond the user.

(10) *Sirens.*

(a) *Sirens shall be operated only during emergency situations. No siren shall exceed 128 decibels more than 10 feet from the source.*

(b) *No anti-theft or anti-intruder alarm system siren, whether for a home or a vehicle, shall sound, either continuously or intermittently, for a course of more than 15 minutes or for more than 15 minutes in a one hour period. All such sirens shall be equipped with a reset device that causes automatic shutoff 15 minutes after the start of the alarm.*

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(11) *Excessive Vibration.* No person shall create or cause, or permit the creation of, vibration levels that exceed 0.15 inches per second beyond any property boundary or 30 yards from any moving source.

(12) *The provisions of this section shall not apply to aircraft, airport and railroad operations and licensed fireworks displays.*

SECTION 3. Section 10-404 of The Philadelphia Code is deleted in its entirety and replaced with the following:

§10-404. Enforcement.

(1) *The Department of Public Health, the Police Department, and the Department of Licenses and Inspections shall have the power to effect compliance with this Chapter and any Regulations adopted hereunder, by*

(a) *issuance of a Code Violation Notice under the provisions of section 1-112 of this Code; and*

(b) *initiation, through the Law Department, of appropriate legal proceedings:*

(.1) *for the imposition of a penalty under this Chapter; or*

(.2) *in order to prevent, restrain or abate noise or excessive vibration prohibited by this Chapter or Regulations adopted hereunder, or the violation of the provisions of any order made under Section 10-409.*

(3) *In addition, the Department shall have the authority to issue an order pursuant to Section 10-409 commanding all necessary actions or forbearances, and specifying a maximum period of time for the installation of any equipment or any other measures necessary to achieve compliance.*

(4) *Continuing violations of this Chapter, any Regulation adopted hereunder, or any order of the Department made hereunder are hereby declared to be a public nuisance per se. Where the Department determines that a nuisance exists, the Department, in addition to or in lieu of invoking any other sanction or remedial procedure provided, may certify the existence of a nuisance per se, to the Department of Licenses and Inspections, which shall provide notice of the certification to the violator and itself or by contract abate and remove the violation; charge the cost of the abatement*

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or removal to the person responsible therefore; and with the approval of the Law Department, collect the cost by lien or otherwise as may be authorized by law.

(4) The imposition of any penalty under this Chapter shall not prevent the City from instituting any appropriate administrative action or proceeding or any action at law or equity to require compliance with the provisions of this Chapter, regulations adopted hereunder, or administrative orders and determinations made hereunder.

SECTION 4. Section 10-405 of The Philadelphia Code is amended as follows:

§10-405. Additional Powers and Duties of [City] *The Department[s] of Public Health.*

The powers and duties to be exercised by Department[s of the City under this Chapter are as follows] *of Public Health shall include the following:*

[(1) The Department of Public Health shall be responsible for the administration and enforcement of this Chapter and all Regulations adopted hereunder, as set forth below in paragraphs (2) through (14) of this Section. In addition, the Department of Public Health, the Police Department, and the Department of Licenses and Inspections shall have the authority to issue tickets for violations of this Chapter in residential districts in accordance with the provisions of §10-406.

(2) The Department shall have the power to effect compliance with this Chapter and any Regulations adopted hereunder, by:

(a) order pursuant to Section 10-408 commanding all necessary actions or forebearances, and specifying a maximum period of time for the installation of any equipment or any other measures necessary to achieve compliance; or

(b) initiation, through the Law Department, of appropriate legal proceedings in any Court of Law:

(.1) for the imposition of a penalty under this Chapter; or

(.2) in order to prevent, restrain or abate noise or excessive vibration prohibited by this Chapter or Regulations adopted hereunder, or the violation of the provisions of any order made under Section 10-408.

The imposition of any penalty under Section 10-403 shall not prevent the Department from instituting any appropriate administrative action or proceeding or any

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action at law or equity to require compliance with the provisions of this Chapter, regulations adopted hereunder, or administrative orders and determinations made hereunder.]

[(3)] (1)	*	*	*
[(4)] (2)	*	*	*
[(5)] (3)	*	*	*
[(6)] (4)	*	*	*
[(7)] (5)	*	*	*
[(8)] (6)	*	*	*
[(9)] (7)	*	*	*
[(10)] (8)	*	*	*
[(11)] (9)	*	*	*
[(12)] (10)	*	*	*
[(13)] (11)	*	*	*
[(14)] (12)	*	*	*

SECTION 5. Section 10-406 of The Philadelphia Code is deleted in its entirety and replaced with the following:

§10-406. Penalties.

(1) *The penalty for an initial violation of this Chapter is a fine of not less than one hundred (100) dollars and not more than three hundred (300) dollars.*

(2) *For a second violation within twelve months of a prior violation, the penalty is a fine of not less than two hundred (200) dollars and not more than four hundred (400) dollars.*

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(3) *For a third violation within twelve months of two prior violations, the penalty is a fine of not less than three hundred (300) dollars and not more than five hundred (500) dollars.*

(4) *For a fourth, or subsequent, violation within twelve months of three or more violations, the penalty is a fine of not less than five hundred (500) dollars and not more than seven hundred (700) dollars.*

(5) *A violation of the same requirement shall be considered as a separate violation for each day the violation continues.*

SECTION 6. Section 10-105 of The Philadelphia Code is amended as follows:

§10-105. Animals Committing Nuisances.

* * *

~~———— (4) Animal Noise. No person, having possession, custody or control of any animal, shall knowingly or negligently permit any dog or other animal to make any noise which causes unreasonable annoyance, disturbance or discomfort to a person or persons residing within five hundred feet (500') of the owner of said animal. The complainant(s) must be willing to sign a complaint against the owner and agree to testify in court if required.~~

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SECTION 7. The Philadelphia Department of Public Health’s “Noise and Excessive Vibration Regulations” in effect on the date of adoption of this Ordinance are hereby superseded, except for the definition of “Noise” and subsection III.B., entitled “Ash, Trash, or Garbage Collection,” set forth in those Regulations and as may be amended hereafter.

Explanation:

~~Strikethrough~~ indicates matter deleted.
Italics indicate new matter added.

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