

NEWCASTLE LOCAL MUNICIPALITY



BY-LAWS

NOISE CONTROL

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NOISE CONTROL BY-LAWS

ENABLING PROVISIONS

The Newcastle Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) hereby publishes the bylaws as set forth hereafter as bylaws made by the Municipality.

PURPOSE

To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Newcastle and provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

COMMENCEMENT

These By-laws shall come into operation on the date of publication thereof in the Provincial Gazette

BE IT ENACTED by the Newcastle Local Municipality, as follows:-

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1. DEFINITIONS

In these bylaws any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates:

- 1.1 **"Ambient Sound Level"** means the reading taken at the end of a period at least 10 minutes, uninterrupted by an alleged disturbing noise, or an integrating impulse sound level meter placed at a measuring point during which period the said meter has been in operation at all times;
- 1.2 **"Animal"** also includes birds and poultry;
- 1.3 **"Controlled area"** means a piece of land designated by the Municipality where, in the case of:
- (a) road transport noise in the vicinity of a road:
- i) The reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 on any day, during which period the said meter has been in operation at all times, exceeds 65 dBA; or
 - (ii) The equivalent continuous "A" – weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210-1986, titled "Code of Practice for calculating and predicting road traffic noise", published under Government Notice No. 358 of 20 February 1987, and projected for a period of 15 years following the date on which the Municipality has made such designation exceeds 65 dBA;
- (b) aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the Municipality has made such designation, exceeds 65 dBA; or
- (c) industrial noise in the vicinity of an industry:
- (i) The reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter is in operation, exceeds 61 dBA;
 - (ii) The calculated outdoor equivalent continuous "A" weighted sound pressure level at a height of at least 1, 2 metres, but not more than 1, 4 metres, above the ground for a period of 24 hours, exceeds 61 dBA, where dBA means the value of the sound pressure level in decibels determined using a frequency weighting network A and derived from the following equation:

$$L_p = 10 \log_{10} \left[\frac{p_A^2}{p_o^2} \right], \text{ where}$$

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A

p = the "A" weighted sound pressure; and

A

p_0 = the reference sound pressure

o

$$\left(\begin{array}{l} p \\ 0 = \mu Pa \end{array} \right)$$

- 1.4 **"Disturbing noise"** means a noise level which exceeds the zone sound level or, if no zone sound level has been designated, a noise level which exceeds the ambient sound level at the same measuring point by 7 dBA or more;
- 1.5 **"Erect"** also means alter, convert, extend or re-erect;
- 1.6 **"Integrating Impulse Sound Level Meter"** means a device which integrates a function of the root mean square value of sound pressure over a period of time while it is set on "1" – time weighting and which indicates the result in dBA;
- 1.7 **"Measuring point"**, relating to:
- (a) A piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of bylaw 6;
 - (b) A building with more than one occupant, means a point in or outside the building where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of bylaw 6; and
 - (c) A stationary vehicle, means a point as described in SABS 0181-1981, titled "Code of Practice the measurement of noise emitted by road vehicles when stationary", published under General Notice No. 463 of 9 July 1982, where a measuring microphone shall be placed;
- 1.8 **"Municipality"** means the Newcastle Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

- 1.9 **"Municipal Manager"** means the person appointed in terms of Section 82 of the Local Government Municipal Structures Act 1998, (Act 117 of 1998);
- 1.10 **"Noise Level"** means the reading on an integrating impulse sound level meter taken at a measuring point, of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter had been put into operation, and, if the alleged disturbing noise has a discernible pitch, to which 5 dBA has been added;
- 1.11 **"Noise Nuisance"** means any sound which disturbs or impairs or may disturb or impair or is deemed to disturb or impair the convenience or peace of any person;
- 1.12 **"Noise Control Officer"** means a person designated by the Municipality to implement and enforce these bylaws;
- 1.13 **"Noisiness Index"** means a number expressed in dBA as defined in SABS 0117-1974, titled "Code of Practice for the determination and limitation of disturbance around an aerodrome due to noise from aeroplanes" published under Government Notice No. 151 of 1 February 1985;
- 1.14 **"Plant"** means a refrigeration machine, air-conditioner, fan system, compressor, power generator or pump;
- 1.15 **"Property protection plane"** means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;
- 1.16 **"Recreational vehicle"** means:
- (a) An off road vehicle, scrambler, dune buggy or ultra-light aircraft;
 - (b) A model aircraft, vessel or vehicle;
 - (c) Any aircraft or helicopter used for sport or recreational purposes;
 - (d) Any other conveyance or model which in the opinion of the Municipality is a recreational vehicle;
- 1.17 **"Sound level"** means the reading on a sound level meter taken at a measuring point;
- 1.18 **"Sound level meter"** means a device measuring sound pressure while is set on "f" – time weighting and which indicates the result in dBA;
- 1.19 **"The Act"** means the Environmental Conservation Act, 1989 (Act 73 of 1989);

1.20 "Zone one sound level" means a derived dBA value determined indirectly by means of a series of measurements, calculations or table readings and designated by the Municipality for an area.

2. POWERS OF THE MUNICIPALITY – (1) An authorised person may:

- (a) For the purposes of applying these bylaws, and subject to the provisions of Section 14 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) at any reasonable time enter premises without prior notice:
 - (i) to conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon; and
 - (ii) to take any steps it may deem necessary;
- (b) In order to determine whether a vehicle using any road in the area of jurisdiction of the Municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of these Regulations, instruct the owner or person in control of the vehicle:
 - (i) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place determined by an authorised official of the Municipality;
 - (ii) to stop the vehicle or cause it to be stopped;
 - (iii) to have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle forthwith;
- (c) If a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of the Municipality be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible or the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or all such persons, to discontinue or cause to be discontinued such noise, or to take steps to lower the level of the noise to a level conforming to the requirements of these bylaws within the period stipulated in the instruction; provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles;
- (d) Before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected, in writing require that noise impact assessments or tests are conducted to the satisfaction of the Municipality by the owner, developer, tenant or occupant of the facilities, land or buildings or that, for purposes of bylaw 3(b) or (c), reports or certificates in relation to the noise impact to the satisfaction

of the Municipality are submitted by the owner, developer, tenant or occupant to the Municipality on written demand;

- (e) If excavation work, earthmoving work, pumping work, drilling work, construction work or demolition work or any similar activity, power generation or music causes a noise nuisance or a disturbing noise, instruct in writing that such work, activity generation or music be forthwith discontinued until such conditions as the Municipality may deem necessary have been complied with;
- (f) Designate one or more controlled areas in its area of jurisdiction or amend or cancel an existing controlled area by a resolution of the Municipality;
- (g) If the owner or person in charge of an animal fails to comply with an instruction referred to in paragraph (c), subject to the appropriate provisions of any other law, impound such animal;
- (h) Subject to the provisions of section 8 and the appropriate provisions of any other law, impound a vehicle if the sound level of such vehicle exceeds the sound level referred to in section 3 (j) by more than 5 dBA;
- (i) In writing request the owner or person in control of a plant referred to in section 3(k) forthwith to furnish proof to its satisfaction that the plant shall not cause a disturbing noise;
- (j) Impose such conditions as it may deem fit when granting any permission or exemption in terms of these bylaws;
- (k) Incorporate conditions in relation to noise control with the establishment of a new township, in order to implement the objectives of the Act;
- (l) Subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these bylaws; provided that road signs, traffic signs and notices may be placed on private property only with the permission of the owner;
- (m) Designate zone sound levels for specific areas and for specific times by resolution of the Council of the Municipality.

3. GENERAL PROHIBITION –(1) No person shall:

- (a) Establish a new township unless the lay-out plan concerned, if required by the Municipality, indicates in accordance with the specifications of the Municipality, the existing and future sources of noise with concomitant dBA values which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commences;

- (b) Erect educational, residential, flat hospital, church or office buildings in an existing township within a controlled area, unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 60 dBA; provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;
- (c) Make changes to existing facilities or existing uses of land or buildings or erect new buildings, if in the opinion of the Municipality. Any such change will result in a disturbing noise, unless precautionary measures to prevent such disturbing noise have been taken to the satisfaction of the Municipality;
- (d) Build a road or change an existing road, or alter the speed limit on a road, if it will in the opinion of the Municipality cause an increase in noise in or near residential areas, or office, church, hospital or educational buildings, unless noise control measures have been taken in consultation with the Municipality to ensure that the land in the vicinity of such road need not be designated as a controlled area;;
- (e) Develop educational, residential, hospital or church even within a controlled area in a new township or an area which has been rezoned; provided that such development may be allowed by the Municipality in accordance with the acoustic screening measures specified by the Municipality in approving the building or other relevant plans;
- (f) Fail to comply with a directive, instruction or notice issued by the Municipality in terms of these bylaws;
- (g) Notwithstanding the provisions of paragraph (h), stage an organised open-air music festival or similar gathering without the prior consent in writing of the Municipality;
- (h) Subject to the provisions of bylaws 4 and 5(a), operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public, exceeds 95 dBA, unless the following warning is displayed in two official languages and in legible form in a conspicuous place at each entrance to such place:

"Warning: Sound levels generated here may cause permanent hearing damage"

provided that such signs may be displayed without the Municipality's approval;

- (i) Generally use any power tool or power equipment for construction, earth drilling or demolition works, or allow it to be used in a residential area during the following periods of time:
 - (i) before 06:00 and after 18:00 from Monday to Saturday; and
 - (ii) at any time on any Sunday, Public Holiday, or any other time as determined by the Municipality;
- (j) Generally drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SABS 0181-1981, titled "Code of Practice for the measurement of noise emitted by road vehicles when stationary", published under General Notice No.463 of 9 July 1982, exceeds the sound level indicated in the second or third column, as the case may be.
- (k) If so required by the Municipality, install, replace or modify a plant with a total input power exceeding 10 kilowatts on any premises, unless the Municipality has been notified by the owner or person in control of the plant in writing at least 14 days before such installation, replacement or modification of:
 - (i) the particulars of the plant;
 - (ii) the number, street address and title deed description of the premises concerned; and
 - (iii) the nature of and the date on which the installation, replacement or modification shall commence;

provided that if an existing plant has to be replaced by necessity without preceding notification to the Municipality, the Municipality shall be notified by the owner of the plant, in writing, within 14 days after the replacement thereof;
- (l) Unlawfully tamper with, remove, put out of action, damage or repair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice, placed in a position by or on behalf of the Municipality;
- (m) For the purpose of these bylaws in respect of a duly authorised employee of the Municipality:
 - (i) fail or refuse to grant admission to such employee to enter and to inspect premises;
 - (ii) fail or refuse to give information which may lawfully be required of him to such employee;
 - (iii) hinder or obstruct such employee in the execution of his duties; or
 - (iv) give false or misleading information to such employee knowing that it is false or misleading.

4. PROHIBITION OF DISTURBING NOISE – (1) No person shall make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, machine, device or apparatus or any combination thereof.

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5. PROHIBITION OF NOISE NUISANCE - No person may

- (a) Cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
- (b) Offer any article for sale by shouting or ringing a bell, or by allowing shouting or the ringing of a bell, in a manner which causes a noise nuisance;
- (c) Allow an animal owned or controlled by him or her to cause a noise nuisance;
- (d) Build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it causes a noise nuisance;
- (e) Use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used or discharged, if it causes a noise nuisance, except with the prior general or specific consent in writing of the Municipality and subject to such conditions as the Municipality may deem necessary;
- (f) Except in an emergency, or otherwise as expressly permitted by the Municipality emit a sound, or allow a sound to be emitted by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it causes or results in a noise nuisance or disturbing noise
- (g) Operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow any of the foregoing to be operated, if such operation causes or results in a noise nuisance or disturbing noise
- (h) Load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or similar article or allow it to be loaded, unloaded, opened, shut or handled, if it causes a noise nuisance;
- (i) Drive a vehicle on a public road in such a manner that it causes a noise nuisance.
- (j) Stage an open – air music festival or similar gathering without the prior written consent of the municipality and the municipality may impose conditions
- (k) Through singing and music causes or may cause a noise nuisance or a disturbing noise , the municipality may instruct in writing that such music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with.

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6. USE OF MEASURING INSTRUMENTS - (1) The measurement of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of these bylaws shall be done as follows:

- (a) Outdoor measurements on a piece of land; by placing the microphone of an integrating impulse sound level meter at least 1,2metres but not more than 1,4 metres above the ground and at least 3,5 metres away from walls, building or other sound reflecting surfaces; and
- (b) Indoor measurements in a room or enclosed space, which is not ventilated mechanically; by placing the microphone of an integrating impulse sound level meter at least 1, 2 metres, but not more than 1, 4 metres above the floor and at least 1, 2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open; provided that the windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.

(2) Any person taking readings, shall ensure that:

- (a) The microphone of an integrating impulse sound level meter is at all times provided with a windshield;
- (b) The measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
- (c) Sound measuring instruments are checked annually by the South African Bureau of Standards or a calibration laboratory approved by the National Minister of Trade and Industry in order to comply with the appropriate specifications for accuracy.

7. EXEMPTIONS – (1) The provisions of these bylaws shall not apply, if:

- (a) the emission of sound is for the purposes of warning people of a dangerous situation, or
- (b) the emission of sound takes place during an emergency.

(2) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of these bylaws.

(3) As exemption shall, if approved, be granted by the Municipality in writing, and the conditions under which and the period for which such exemption is granted, shall be stipulated in such exemption.

(4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under bylaw (3); provided that if activities are commenced before such undertaking has been submitted to the Municipality, the exemption shall lapse.

(5) If any condition of exemption is not complied with, the exemption may be withdrawn by the Municipality after notice to show cause against the proposed withdrawal has been given, and the representations, if any, resulting therefrom have been considered.

8. ATTACHMENT - (1) A vehicle impounded under section 2(h) shall be kept in safe custody by the Municipality.

(2) The Municipality may lift the attachment contemplated in section 2(h) if the owner or person in control of the vehicle concerned has been instructed in writing by an authorised officer of the Municipality:

- (a) To repair or to modify the vehicle concerned or cause it to be repaired or to be modified; and
- (b) To have such inspection or test as the Municipality may deem necessary conducted on the vehicle on a date and at a time and place mentioned in the instruction.

9. OFFENCES AND PENALTIES – (1) Any person who:

- (a) Wilfully conceals any facts or documents in connection with an application for interment;
- (b) Makes any false statement in his/her written application for interment;
- (c) Contravenes any provision of these bylaws or who fails to comply with the requirements thereof shall be guilty of an offence and upon conviction shall be liable to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

10. REPEAL OF BYLAWS (1) The Council's bylaws relating to noise control are hereby repealed.

11. SHORT TITLE – (1) These by-laws shall be called the Noise Control By-laws 2017.

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