

NOTICE

THE COMMISSIONERS OF THE CITY OF REHOBOTH BEACH ON APRIL 17, 2015,  
ADOPTED ORDINANCE NO. 0415-02 WHICH READS AS FOLLOWS:

**AN ORDINANCE TO AMEND CHAPTER 189 OF THE MUNICIPAL CODE OF THE  
CITY OF REHOBOTH BEACH, DELAWARE, 2001,  
RELATING TO NOISE.**

**WHEREAS**, the Mayor and Commissioners of the City of Rehoboth Beach have observed an increasing proliferation of noise in the City; and

**WHEREAS**, the Mayor and Commissioners of the City of Rehoboth Beach desire to thoughtfully regulate noise to protect the health, safety, and welfare of the residents, guests, and visitors within the City.

**WHEREAS**, the regulations established in this Ordinance will further the purpose of maintaining the character of Rehoboth Beach's residential and commercial districts, and the purpose of protecting the health, safety, and welfare of residents, guests, and visitors within the City.

**BE IT ORDAINED**, by the Commissioners of the City of Rehoboth Beach, in session met, in the manner following to wit:

**Section 1.** Chapter 189, Article I, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting Article I in its entirety, and renumbering the remaining Article and Sections as follows:

<b>Previously</b>	<b>Amended</b>
Article II. General Provisions	Article I. General Provisions
§189-5. Short title	§189-1. Short title
§189-6. Findings and policy	§189-2. Findings and policy
§189-7. Definitions	§189-3. Definitions
§189-8. Maximum noise levels	§189-4. Maximum noise levels
§189-9. Noise disturbance	§189-6. Noise disturbance
N/A	§189-7. Sound Amplification Equipment
§189-10. Noise suppression devices	§189-8. Noise suppression devices
§189-11. Inspections	§189-9. Inspections
§189-12. Exemptions	§189-10. Exemptions
§189-13. Violations and penalties	§189-11. Violations and penalties
§189-14. Construal of provisions	§189-12. Construal of provisions

**Section 2.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the

City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by inserting the following sentence at the beginning of the definition of “DECIBLE (db)”: “A standard unit for measuring the sound pressure level.”

**Section 3.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by alphabetically inserting a new definition of “EQUIVALENT SOUND LEVEL (A-WEIGHTED)” as follows:

**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).

**Section 4.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting the definition of “HOLIDAYS” in its entirety.

**Section 5.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting the following sentence from the definition of “NIGHTTIME”: “The local time of day between the hours of 11:00 p.m. and 8:00 a.m. year round.”

**Section 6.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting the definition of “NOISE” in its entirety, and inserting in lieu thereof a new definition of “NOISE” as follows:

**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 base sound from amplified music, without limitations.

**Section 7.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting the definition of “NOISE DISTURBANCE” in its entirety, and inserting in lieu thereof a new definition of “NOISE DISTURBANCE” as follows:

**NOISE DISTURBANCE**

Any sound which:

- 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 Section §189-4.

**Section 8.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by alphabetically inserting a new definition of “NOISE, PLAINLY AUDIBLE” as follows:

**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.

**Section 9.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by alphabetically inserting a new definition of “PLAINLY AUDIBLE STANDARD” as follows:

**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.

**Section 10.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by alphabetically inserting a new definition of “SOUND TRUCK” as follows:

**SOUND TRUCK**

A truck or other vehicle used for broadcasting.

**Section 11.** Chapter 189, Section 189-3 (previously 189-7), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting the word “is” from the definition of “STATIONARY SOURCE” as such word appears therein and inserting in lieu thereof the word “are”.

**Section 12.** Chapter 189, Section 189-4 (previously 189-8), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting Subsection 189-4(A)(2) and inserting in lieu thereof new Subsection 189-4(A)(2) as follows:

- (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.

**Section 13.** Chapter 189, Section 189-4 (previously 189-8), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting from Subsection 189-4(A)(3) the phrase “§189-7” as such phrase appears therein and inserting in lieu thereof the phrase “§189-3”.

**Section 14.** Chapter 189, Section 189-4 (previously 189-8), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by inserting new Subsection 189-4(B)(3) as follows:

- (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.

**Section 15.** Chapter 189 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by inserting a new Section 189-5 as follows:

**§ 189-5. Noise measurement.**

- 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 Section 189-4 Maximum Noise Levels constitute 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 Subsection 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.

**Section 16.** Chapter 189, Section 189-6 (previously 189-9), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting Section 189-6 in its entirety and inserting a new Section 189-6 as follows:

**§189-6. Noise Disturbance.**

**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 regulation 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) 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.
- (2) No person shall sell anything by outcry. The selling by outcry of merchandise, food and beverages at city licensed entertainment events is excluded.
- (3) 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.

**Section 17.** Chapter 189 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by inserting a new Section 189-7 as follows:

**§189-7 Sound Amplification Equipment**

- 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, 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.

**Section 18.** Chapter 189, Section 189-11 (previously 189-13), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended, be and the same is hereby further amended by deleting Section 189-11 in its entirety and inserting a new Section 189-11 as follows:

**§189-11. Violations and Penalties.**

- 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 two hundred dollars (\$200.00) and not to exceed two hundred and fifty dollars (\$250.00). For each subsequent offense such person shall be subject to a fine of at least two hundred and fifty dollars (\$250.00) and not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than thirty (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.

**Section 19.** If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

**Section 20.** This Ordinance shall take effect immediately upon its adoption by a majority vote of the Commissioners of the City of Rehoboth Beach.

**SYNOPSIS:** This Ordinance established regulations related to the control of 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.