

# FROM THE DESK



## NOISE NUISANCE - THE CITY OF CAPE TOWN APPROACH.

BEFORE ELABORATING ON THE SUBSTANCE OF THE MATTER, I SHALL DEFINE A FEW TERMS BELOW:

### Defining a Noise Nuisance.

The Department of Environmental Affairs and Development Planning Environment Conversation Act, 1989; Western Cape Noise Control Regulations PN of 2013 ("Noise Control Regulation") defines a noise nuisance as "any sound which impairs or may impair the convenience or peace of a reasonable person."

Section 3 of Noise Control Regulation prohibits certain conduct that may cause a noise nuisance:

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- (a) operate or play, or allow to be operated or played, a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier, or loudspeaker system, or any similar device producing, reproducing or amplifying sound;
- (b) market or advertise any article or service for sale;
- (c) allow an animal to make noise;
- (d) discharge fireworks in a manner that does not comply with the local authority's requirements;
- (e) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, model aircraft or any other object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, in or near a residential area;
- (f) use or discharge any explosive, firearm or similar device that emits any sound impulse, or allow it to be used or discharged, without the written permission of the local authority;
- (g) except in an emergency, emit a sound, or cause a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
- (h) operate any machinery, power tool, lawnmower, power garden tool or similar device or allow it to be operated;
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow it to be loaded, unloaded, opened, shut or handled;
- (j) drive or operate a vehicle, vessel or model aircraft or allow it to be driven or operated; or
- (k) make any other noise not indicated in paragraphs (a)-(j).



## Procedure to be Followed for Control of Noise

It's quite an extensive list. Whereas, section 3 of the City of Cape Town Municipal By-Law Relating to Streets, Public Places and the Prevention of Noise Nuisances; prohibits a person in a public place from causing a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound; or permitting a noise from a private residence or business to be audible in a public place, except for ... loudspeaker announcements for public meetings or due to the actions of street entertainers.

A noise nuisance may be a noise emanating from a house party or even a neighbouring scholar practicing for their piano recital at 14h00 in the afternoon - **as long as the sound disturbs your peace of mind in the sanctuary of your own home**; it is a noise nuisance.

To note: "Public place" may include the roads or the sidewalk.



To clear up a common misconception; **noise does not have a curfew**. Whether your neighbour is causing excessive noise at 10 am or 10 pm is irrelevant. What matters is that the noise disturbs or disrupts.

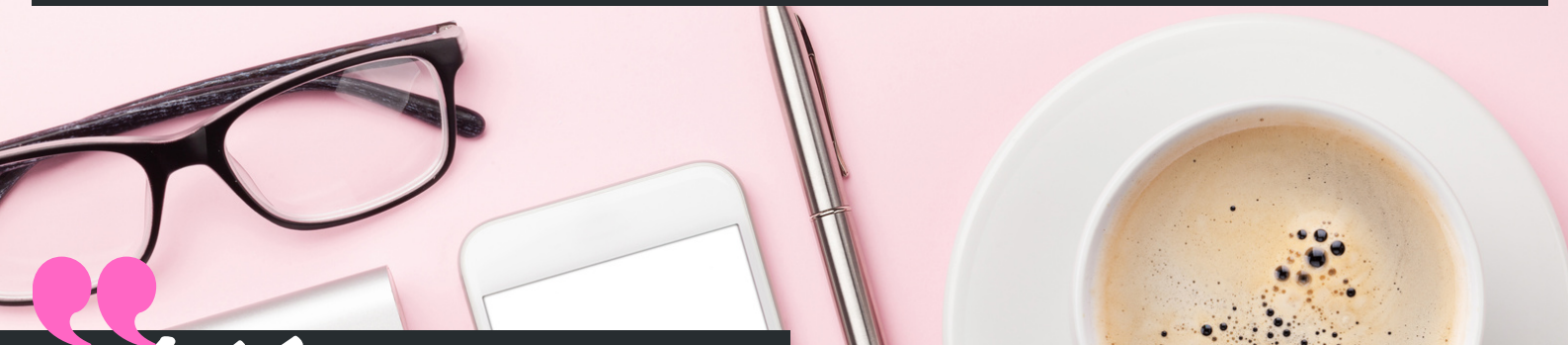
### What do I do if my neighbour is disturbing my peace?

Make a call to the City of Cape Town Law Enforcement Unit. Whereafter a Law Enforcement Officer, if resources permit, will visit your distressed area and make an objective assessment; being whether they can reasonably hear the sound from the public space (the road or sidewalk). If the Officer on-site is satisfied that the sound constitutes a noise nuisance; the Officer shall issue a noise warning to the offending resident.

### If one week later, you hear a gaggle of partygoers belting out the chorus to the latest chart topper?

Place another call to your Law Enforcement Unit (021 480 7700) who may issue a fine and notify the Noise Control Administration Unit ("NCU") that a matter of concern has arisen in your community.

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*of Karlynnne*

## REPORTING NOISE TO THE NOISE CONTROL ADMINISTRATION UNIT (“NCU”)

The Law Enforcement Unit will mainly deal with residential noise disturbances, whereas the NCU will focus their resources on determining whether mechanical, industrial or centres of entertainment exceed the allowed decibel rating as envisaged in the Noise Control Regulation (a disturbing noise exceeds the rating level by 7 dBA as per subsection (a) of the definition of “disturbing noise”).

The NCU is a team of qualified noise technicians with the relevant equipment needed to determine whether the sound emanating from an area is lawful.

You can contact NCU via email: **noise @ [capetown.gov.za](mailto:noise@capetown.gov.za)** or in person with a **supporting affidavit** signed and stamped by a Commissioner of Oaths detailing the noise nuisance, as per section 10(3) of the Noise Control Regulation, by including:

- (a) the nature of the alleged noise nuisance;
- (b) when the noise nuisance was first noticed;
- (c) the duration of the noise nuisance;
- (d) if applicable, how often the noise nuisance has occurred;
- (e) the origin of the noise nuisance; and
- (f) if obtainable, the name and address of the occupant of the premises from which the nuisance originates.

**EVIDENCE:** The afflicted party is encouraged to make an **audio-visual recording (a video)** of the nuisance; which, the designated official will use in their investigation. Should the NCU be satisfied with your affidavit, concluding there is a racket afoot, they shall contact the afflicted party to visit the troubled area and conduct a technical investigation.

## THE CONSEQUENCES OF YOUR ACTIONS

The City will assist in matters being resolved by the parties themselves; by promoting conversation, neighbourly mediation with or without State intervention. However, should the issue become dire; the affidavit submitted to the NCU may be joined as an annexure in a legal document and the complainant may be subpoenaed to testify in a court of law.

If a Court finds you guilty; you may be **liable to a fine or imprisonment** (not exceeding two years) or a combination of both a fine and imprisonment (section 13(2) of the Noise Control Regulation).

If the convicted individual continues to contravene the above regulations, a fine may imposed not exceeding **R50 000** or imprisonment (not exceeding twenty days) or a combination of both, for **every day the offence continues**.

In closing, we all love a party; but instead, let's turn up the time we spend with our family and friends this festive season. Let's be considerate of our neighbours, before plugging in that amplifier.

## RESOURCES USED:

- Department of Environmental Affairs and Development Planning Environment Conversation Act, 1989; Western Cape Noise Control Regulations PN of 2013,
- Standard Operating Procedure for Complaints Relating to Noise Nuisances and Noise Disturbances,
- City of Cape Town Municipal By – Law Relating to Streets, Public Places and the Prevention of Noise Nuisances,