

## Cracking the new New York City noise code

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New Yorkers are continually bombarded by noise — construction, traffic, loud music, heavy machinery and hundreds of other sources. However, in early July, a new noise law took effect, limiting the allowable decibel levels of various noisemakers, ranging from barking dogs to construction sounds and nightclubs.

Mayor Bloomberg's overhaul of the New York City Noise Code is the first of its kind in nearly 30 years. In an effort to elevate quality of life, the law, which will be enforced by the New York Police Department and the Department of Environmental Protection, will reduce the allowable noise level that travels into nearby buildings and onto the streets.

Code violators can receive fines ranging from \$100 to several thousand dollars.

The new restrictions come at a time of particularly robust activity in New York City, a bustling center of construction and renovation activity. While it is impossible to eliminate construction noise completely, the new code



requires contractors to post noise mitigation plans at construction sites. These plans require that jackhammers be equipped with noise-reducing mufflers, or that

portable street barriers are in place to reduce sound impact on neighboring buildings. Construction work is also limited to the hours of 7 a.m. to 6 p.m. on weekdays and 10 a.m. to 4 p.m. on the weekends.

Construction projects near sensitive facilities such as places of worship, schools and hospitals are expected to design their noise plans accordingly.

Another common source of noise is industrial-sized air conditioning units that can emit high decibel levels if they are poorly maintained.

Building owners and managers must take proper precautions to ensure that their air circulating equipment is working properly and does not exceed the 42 to 45 decibel limit,

which is measured within three feet of an open window and depends on the number of units.

Noise emanating from tenants themselves can also be controversial. Unless landlords can justifiably control noise, they are not responsible for the noise tenants make.

One of the most common noise complaints is incessant dog barking. The new code stipulates that if "barking is unreasonable and plainly audible from within nearby residential property" for more than 10 minutes between 7 a.m. and 10 p.m. or for more than five minutes between 10 p.m. and 7 a.m., owners will be held accountable for their pets' noise and are subject to fines.

If a noisy tenant is disturbing other tenants and neighbors, landlords can bring a summary holdover to try to evict for a violation of the lease or the applicable rent regulatory laws based

upon the tenant's constituting a nuisance

Building owners should take certain precautions to ensure that they are not fined for noise caused by tenants: e.g. including terms in new leases that obligate tenant's to comply with all governmental laws and not engage in

objectionable conduct, conforming building/tenant rules to the new noise code, and pursuing summary eviction proceedings when any tenant's behavior is in violation of the new rules.

The city has taken the appropriate measures to elevate quality of life for all New Yorkers. Everyone involved, from construction crews to building owners to

tenants, should attempt to abide by the new noise code and try to resolve noise problem without forcing one party to resort to litigation.

Preventative measures and mediation are usually the best solution to noise disputes. ■

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