

**State of New Jersey
Model Noise Ordinance for Off-Road Vehicles**

Disclaimer: The NJDEP in collaboration with the New Jersey Noise Control Council has developed this model noise ordinance to serve as guidance to municipalities seeking to enact noise control standards for off-road vehicles. Any municipality that adopts this ordinance with decibel standards, whether changes have been made or not, must submit the document for approval to the NJDEP, Bureau of Local Environmental Management, PO Box 420, Mail Code 401-04N, 401 East State Street, Trenton, NJ 08625-0420.

I. Purpose

The purpose of this ordinance is to establish standards for the operation of motor-driven off-road vehicles within the municipality of _____ to minimize the impact of noise from the operation of such vehicles on residents of the municipality and the environment.

II. Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Affected Person" means any person on a regulated property who has registered a noise complaint with an authorized enforcement agency and such person has an interest in the protected property as an owner, tenant or employee.

"Department" means the New Jersey Department of Environmental Protection.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment.

"Noise Control Officer" means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities; or a municipality with a Department-approved noise control ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

"Noise Control Investigator" means an employee of a municipality, county or regional health commission that has a Department-approved noise control ordinance and the employee has not received noise enforcement training. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that does not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized by their municipality, county or regional health commission to issue a violation and/or summons.

"Occupied Property" means any affected person's property including but not limited to their home, studio, pool, tennis courts, barn, stable, penned areas, or similar structure or confined area occupied by livestock.

"Off-Road Vehicle"(ORV) means motor vehicles that are capable of human transport and designed or used for the purpose of recreation off of the public right-of-way by, but not limited to, all-terrain vehicles (ATV), trail/dirt bikes, minibikes, go-carts and snowmobiles.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased or controlled by a governmental entity.

"Real property line" means the imaginary line including its vertical extension that separates one parcel of real property from another.

III. Applicability

All off-road vehicles as defined in Section II. shall comply with the requirements herein.

IV. Exceptions

1. ORVs specifically used for farming activities under the New Jersey Right-to-Farm regulations, yard work and snow removal.
2. ORVs engaged in government or emergency functions included but not limited to utility repair, search and rescue operations, fire fighting or vehicles engaged in scientific research in otherwise inaccessible areas.
3. ORVs in transit to or from public roadways or when being loaded or unloading from their transport vehicles.
4. Lawn mowers, tractors, lawn, garden or similar equipment for residential use. This equipment must however operate with a factory-installed or functionally equivalent muffler.
5. Public celebrations that are government sponsored or government permitted events.
6. Permitted motor vehicle racetracks.
7. Safety training by a certified instructor under the Motorcycle Safety Foundation (MSF) or another sanctioned curriculum and with written, permitted approval from the municipality.

8. Cleaning, maintenance or repair of an ORV or ORVs, between the hours of (to be determined by the town) when the engine use or operation of one or more ORVs does not exceed 15 minutes in any hour, no more than 2 times per day for a total of 30 minutes, unless sound levels are below 65 dBA at or within a complainant's property line.

V. Prohibited Acts

1. Sound levels made by an ORV or ORVs shall not exceed the day (7am to 10pm) and nighttime (10pm to 7am) limits of 65dBA and 50dBA respectively when measured at or within a complainant's property line unless otherwise specified in this ordinance; or
2. No person shall operate or cause to be operated any ORV not equipped with a factory-installed or functionally equivalent muffler in good working order and in constant operation; or
3. When not measuring dBAs and upon the audible determination by the NCO or NCI, no ORVs shall be operated within 400 feet of an affected person's occupied property during the day (7am to 10pm) or within 800 feet of an affected person's property during the night (10pm to 7am). If the NCO or NCI determines the use of an ORV or ORVs is not impacting on the complainant's enjoyment of life and property as a result of relative loudness, distance to the property line, number of vehicles or frequency of drive bys, even if the ORV operator(s) is within 400 or 800 feet depending on the time of day, a violation does not exist.

VI. Enforcement

1. Any violation of this ordinance shall be cause for an enforcement document to be issued to the violator or the property owner on which the ORV or ORVs was operated, by the noise control officer or noise control investigator according to procedures set forth at N.J.A.C. 7:29. The recipient of an enforcement document with a monetary penalty shall be entitled to a hearing in municipal court having jurisdiction to contest such action.
2. Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than \$2,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense. The violator can request a settlement conference to discuss potential reductions in penalty or to enter a payment schedule.
3. No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance or from other law.
4. It shall be unlawful for the owner or person having control or custody of an ORV to allow or enable a minor (under age 18) to operate said ORV in a manner violating any section of this ordinance. When a minor operates an ORV in violation of this ordinance, it shall be a refutable presumption that the parent or guardian enabled the ORV to be so operated and as such the parent or guardian shall be an additional responsible party.

Severability and Repealer

1. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
2. All ordinances or parts of ordinances that are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

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