

THE CITY OF NEW YORK
HOUSING AND DEVELOPMENT ADMINISTRATION
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: October 6, 1972

TO: Borough Superintendents

FROM: Director of Operations, Thomas V. Burke, P.E.

SUBJECT: NOISE CONTROL CODE

The Noise Control Code, signed into law by the Mayor on October 4, 1972 under Local Law 57/72, contains certain sections that may be misinterpreted. This matter was discussed with Air Resources Commissioner Hart, who concurred entirely in the following interpretations of certain sections of the Noise Control Code, insofar as they affect the provisions of the Building Code, Zoning Resolution, and the operations of the Building Department:-

1. Sections 1403.3-2.01 and 1403.3-5.11 - - Deals with delegation of any of the functions and duties vested in the Environmental Protection Administrator by the subject code, and with regulations regarding air compressors, respectively.

Commissioner Hart agrees that these provisions of law were in no way intended to be a basis for referral of any enforcement activities or complaints to the Department of Buildings, and the Department of Air Resources will not make any such referrals.

2. Section 1403.3-2.21 - - This Section stipulates that where there is any provision of the Noise Control Code inconsistent with any provision of any other law, that the provisions of the Noise Control Code will be controlling.

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Commissioner Hart agrees that this was in no way intended to be a basis for anyone to evade compliance with applicable laws, and Borough offices should at no time accept approvals or decisions by the Department of Air Resources as having any bearing on mandatory requirements of the Building Code, Zoning Resolution, Labor Law, Multiple Dwelling Law, or Housing Maintenance Code.

3. Section 1403.3-4.11 - - This Section deals with the permissible hours and days of construction activities and authorizes this department to issue a variance therefrom for a period of up to three days, renewable for additional periods of up to three days while the necessity therefor continues, as was provided in Section 435-5.0 of the Administrative Code, which has been repealed by enactment of the Noise Control Code. This variance is required to be marked on the license or permit, posted on the site of such construction activities, and a copy of such marked license or permit is to be forwarded promptly to the Environmental Control Board.

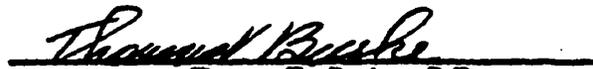
4. Section 1403.3-4.21 - - This Section authorizes the Environmental Protection Administrator and the Board of Health to designate any geographical area as a noise sensitive zone, and to issue a joint administrative order limiting those activities which would constitute unnecessary noise in such zones.

Commissioner Hart agrees that this section was in no way intended to nullify any of the provisions of the Zoning Resolution, which would authorize specific uses in specific zones or districts. Accordingly, you are to enforce the Zoning Resolution as in the past, and are to advise any individuals who are affected by this section accordingly.

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5. Section 1403.3-8.01 (f) (2) - - This sub-division authorizes the Environmental Control Board to overrule the decision of the Borough offices to grant a waiver of the hours of construction activities specified in Section 4.11 (superseding repealed Section 435-5.0 of the Administrative Code), and direct persons issued a variance from this department to cease and desist from construction activities other than during permissible hours specified in Section 4.11 (a) of the Noise Control Code.

Commissioner Hart notes that the wording of the Noise Control Code is similar to that in the Administrative (or Building) Code and that the Council noted in its report on the Noise Control Code that past grounds for issuing a variance are to be followed by our department. We do not anticipate that the Environmental Control Board will overrule an order by this department regarding emergency operations regardless of the duration.


Thomas V. Burke, P.E.
Director of Operations

TVB:rwr
cc: Executive Staff

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