

Statutory Instrument No. 120 of 2020

LOCAL GOVERNMENT ACT
(CAP 40:01)

**GABORONE CITY COUNCIL (NOISE AND NUISANCE
CONTROL) BYE-LAWS, 2020**

(Published on 18th September, 2020)

ARRANGEMENT OF THE BYE-LAWS

BYE-LAW

1. Citation
2. Interpretation
3. Nuisance prohibited
4. Restriction on operating sound systems
5. Restriction on certain loud noise, disturbance and other activities
6. Application for noise licence
7. Issue of licence
8. Suspension or revocation of licence
9. Odour and smoke control
10. Abatement notice
11. Power to confiscate
12. Appeals
13. Offences and Penalties

SCHEDULES

IN EXERCISE of the powers conferred by section 44 and 45 of the Local Government Act, and after consultation with the community living within the Council area, and with the approval of the Minister of Local Government and Rural Development, the Gaborone City Council hereby makes the following Bye-Laws --

1. These Bye-Laws may be cited as the Gaborone City Council (Noise and Nuisance Control) Bye-Laws, 2020. Citation

2. In these Bye-Laws, unless the context otherwise requires -- Interpretation
“abatement notice” means a written communication to a violator requiring the stoppage of noise or nuisance with immediate effect or placing restrictions on when and how long an activity can occur or place other restrictions as necessary;

“Council” means the Gaborone City Council;

“designated area” means an area designated by the Council as an area where the issue of a noise licence is likely to cause disturbance or nuisance to the premises in the neighbourhood;

“musical instrument” includes a wireless, loudspeaker, record player, amplifier or any similar device;

“noise licence” means the written permission issued by the Council, with or without conditions;

“nuisance” means any disturbance that materially interferes with another person’s enjoyment of his or her own home or habitation and it may be experienced by one person or group of persons in a neighbourhood; and

“sound level (decibel) meters” means meters that measure sound levels work by calculating the pressure of the sound waves travelling through the air from a source noise.

Nuisance prohibited

3. (1) A person shall not make, cause or allow to be made any disturbance which causes interference and annoyance in the enjoyment of another’s premises or neighbourhood.

(2) In determining whether an activity causes nuisance, the following factors may be considered —

- (a) the time of day;
- (b) duration;
- (c) location;
- (d) frequency;
- (e) loudness;
- (f) type of noise or disturbance; and
- (g) sound levels as per sound level (decibel) meters set out in Schedule 2.

(3) The following activities may constitute a nuisance —

- (a) noise;
- (b) odour;
- (c) smoke from bonfires; or
- (d) any other activity which may be deemed by the Council to be falling within subbye-law (1).

Restriction on operating sound systems

4. (1) A person shall not —

- (a) operate, cause or permit to be operated any musical instrument to the annoyance of the inhabitants of any premises in the neighbourhood;
- (b) cause or permit the making of any noise in a parking lot, open space, public or private property; or
- (c) operate, cause or permit to be operated any musical instrument for the purpose of advertising on or adjacent street,

without the written permission of the Council or any authority delegated to do so by the Council for that purpose.

(2) Any person who contravenes the provisions of this bye-law commits an offence.

Restriction on certain loud noise, disturbances and other activities

5. (1) A person shall not —

- (a) operate or cause or allow the continuous hooting of vehicle horn, or use of a siren from the person’s vehicle or his or her visitor’s vehicle parked next to their premises to the annoyance of other occupants adjacent thereto or nearby;
- (b) after being requested to stop the noise by a law enforcement officer by a way of an abatement notice, or by a police officer or by an inhabitant of the neighbourhood so annoyed or whose rest, peace or tranquillity has been disturbed or interfered with, continue to make any loud or unseemly noise or disturbance by —
 - (i) shouting, screaming or yelling, or
 - (ii) blowing upon a horn, or other instrument or beating upon any drum,

so as to annoy or disturb or interfere with the rest, peace and tranquillity of the inhabitants of the neighbourhood;

(c) in a street or other public place —

- (i) continue to ring any bell, sound any horn, blow any whistle, use any noisy instrument or shout, or play loud music or loud speaker in his or her motor vehicle, or

- (ii) continue to hawk, sell or distribute any article or thing, to the disturbance or inconvenience of any person using the street or other public place after having been requested to desist by a law enforcement officer by way of abatement notice, or by a police officer or by the person so annoyed, disturbed or inconvenienced; or
 - (d) for the purpose of carrying on any business, trade or industry involving the use of machinery which by the noise created by the machine constitutes a nuisance or disturb the comfort, peace or tranquillity of the inhabitants or a section of the inhabitants, between the hours of 6 pm and 8 am, or on a Sunday or on any public holiday.
- (2) Any person who contravenes the provision of this bye-law commits an offence.
- 6.** (1) A person may make an application to the Council, seeking authorisation to carry out activities under bye-laws 3, 4 and 5. Application for noise licence
- (2) The Council may, where it considers expedient, necessary and not against public interest, issue the applicant with a noise licence.
- (3) An application under subbye-law (1) shall be made in Form A set out in Schedule 1 and be accompanied by a non-refundable application fee of P100 for residential or in case of a body corporate, to a non-refundable fee of P500.
- (4) The Council may, upon receipt of an application under subbye-law (1) —
- (a) issue a noise licence on such conditions as may be provided in the noise licence; or
 - (b) reject an application.
- (5) The Council may reject an application where it is satisfied that —
- (a) the applicant has been convicted of an offence under these Bye-Laws;
 - (b) the issue of a noise licence is likely to cause nuisance; or
 - (c) the information provided in the application form is insufficient.
- (6) A noise licence shall not be issued to a person who intends to make or cause the making of noise in an undesignated area.
- (7) A person who violates the conditions of a noise licence shall not be eligible for issuance of a subsequent noise licence within 72 hours.
- 7.** (1) The Council shall, upon approval of an application made under Bye-Law 6, issue a noise licence in a Form B set out in Schedule 1. Issue of licence
- (2) The hours of operation of a noise licence issued under subbye-law (1) shall be stated in the noise licence.
- (3) The council may upon application by the licence holder extend hours of operation for a noise licence issued under subbye-law (1) for a maximum of two hours.
- 8.** The Council may suspend or revoke a noise licence issued under Bye-Law 7 where the licence holder — Suspension of licence
- (a) fails to comply with the conditions of the licence; or
 - (b) operates outside the stipulated time of the licence.
- 9.** (1) A person shall not — Odour and smoke control
- (a) operate, cause or harbour any material substance or waste that emits a foul or strong or noxious odour; or
 - (b) allow smoke from a bonfire in his or her premises to disturb other inhabitants of the neighbourhood.
- (2) Any person who contravenes this bye-law shall be issued with an abatement notice by a bye-law enforcement officer and required to remove the material substance or waste complained of or to stop the smoke.

	<p>(3) The abatement notice shall specify the period within which such smoke should be stopped, or material substance, or waste emitting the odour should be removed.</p> <p>(4) Any person who contravenes the provisions of this bye-law commits an offence and is liable to a fine not exceeding P 300 or in the case of a body corporate or unincorporated body, to a fine of P1 000.</p>
Abatement notice	<p>10. (1) A law enforcement officer shall issue an abatement notice in Form C set out in Schedule 1 for any violation or offence under these Bye-Laws which shall specify —</p> <p>(a) the violator's full names and address;</p> <p>(b) the nature of the offence and time of the occurrence of the offence;</p> <p>(c) corrective steps or instructions; or</p> <p>(d) any restrictions.</p> <p>(2) Any person who contravenes an abatement notice commits an offence and is liable to a fine not exceeding P1 000.</p>
Power to confiscate	<p>11. A police officer or a law enforcement officer may confiscate any musical instrument or similar device used in contravention of the provisions of these Bye-Laws.</p>
Appeals	<p>12. Any person aggrieved by any decision of the Council under these Bye-Laws may appeal in writing, to the Minister within 14 days of notification of that decision.</p>
Offences and penalties	<p>13. Any person who commits an offence under these Bye-Laws for which no penalty is provided for is liable to a fine —</p> <p>(a) in the case of an individual, not exceeding P 300 or to imprisonment for a term not exceeding 21 days, or to both and for the second or subsequent offence, to a fine not exceeding P 600 or to imprisonment for a term not exceeding two months or to both; and</p> <p>(b) in the case of a body corporate or an unincorporated body, to a fine not exceeding P1 000 and for the second or subsequent offence, to a fine not exceeding P2 000.</p>

SCHEDULES

**SCHEDULE 1
Form A**

**APPLICATION FOR A NOISE LICENCE
(bye-law 6(3))**

GABORONE CITY COUNCIL (NOISE AND NUISANCE CONTROL) BYE-LAWS

Name.....

Surname.....

Sex.....

Ward.....

Identity Number.....

Plot number.....

Telephone number.....

Description of activity in
details.....
.....
.....
.....

Have you ever been convicted of any offence related to noise and nuisance? Yes/No

Signature of the Applicant.....

Date.....

For official use

Recommendation

Approved/Not Approved.....

Recommended by.....

Designation.....

Signature.....

Fee paid.....(non refundable)

Receipt Number.....

Official Stamp.....

Form B

**NOISE AND NUISANCE LICENCE
(bye-law 7(1))**

GABORONE CITY COUNCIL (NOISE AND NUISANCE CONTROL) BYE-LAWS

Full Names.....

ID.....

Plot.....

Ward.....

Applicant Contact number.....

Conditions.....
.....
.....

Time of activity (starting time and ending time)
.....

Non-negotiable Condition(s) of the license:
.....
.....

Date issued.....

Receipt number.....

Signature of issuing officer.....

Designation.....

Form C

ABATEMENT NOTICE
(bye-law 10(1))

GABORONE CITY COUNCIL (NOISE AND NUISANCE CONTROL) BYE-LAWS

To.....
.....
.....

Take notice that under the provisions of the Gaborone City Council (Noise and Nuisance Control) Bye-Law, the Council being satisfied of the existence and likely recurrence of a statutory nuisance under the provision of Bye-Law.....on/or around the day of..... (Month).....(Year) at **PLOT NO:**.....
Name of Ward.....

More specifically the offence is;

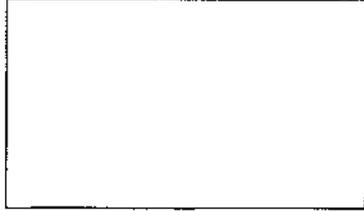
.....
.....
.....
.....

The Council **HEREBY PROHIBIT** the occurrence and/or recurrence of the same above forthwith and for that purpose requires you as the person responsible for the nuisance to;

- ❖ Cease to cause or permit the said violation immediately.

If without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under the Bye-Laws, and will be liable to a fine, in case of an individual not exceeding three hundred Pula (P300.00) or to imprisonment for a term not exceeding twenty-one (21) days, or to both and for a second or subsequent offence to a fine not exceeding six hundred Pula (P600.00) or to imprisonment for a term not exceeding two (2) months or to both;
and in case of a body corporate or an unincorporated body, to a fine not exceeding one thousand Pula (P1, 000.00) and for a second or subsequent offence to a fine not exceeding...

Stamp



Date of issuance

Law Enforcement Officer
(Name)

Received by

Signature

Date

Or served on the premises by;

- (i) Placating on the door/gate

SCHEDULE 2

Maximum Permissible Noise Levels (reg 3(2) (g))

PART I

Maximum Permissible Noise Levels for General Environment

COLUMN 1 FACILITY	COLUMN 2 NOISE LIMITS dB (A) (Leq)	
	DAY	NIGHT
A. Any building used as hospital, convalescence home, home for the aged, sanatorium and institutes of higher learning, conference rooms, public library, environmental or recreational sites.	45	35
B. Residential buildings	50	35
C. Mixed residential (with some commercial and entertainment).	55	45
D. Residential + industry or small scale production + commerce.	60	50
E. Industrial	70	60

Time Frame: use duration

Day - 0800hrs – 1800hrs
Night - 1800hrs-2200hrs

The time frame takes into consideration human activity.

PART II

Maximum Permissible Noise Levels (Continuous or intermittent noise) from a Factory or Workshop

Column 1 Leq dB (A)	Column 2 Duration (Daily)	Column 3 Duration (Weekly)
85	8 hours	40 hours
88	4 hours	20 hours
91	2 hours	10 hours
94	1 hour	5 hours
97	30 minutes	2.5 hours
100	15 minutes	1.25 hours
103	7.5 minutes	37.5 minutes
106	3.75 minutes	18.75 minutes
109	1.875 minutes	9.375 minutes

Noise Levels shall not exceed a Leq of –

- (i) Factory/Workshops 85 dB (A)
- (ii) Offices 50 dB (A)
- (iii) Factory/Workshop Compound 75 dB (A).

PART III

Maximum Permissible Noise Levels for Impact or Impulsive Noise

Column 1 Sound Level dB (A) (L _{max})	Column 2 Permitted number of Impulses or Impacts <i>per day</i>
140	100
130	1,000
120	10,000

PART IV

Maximum Permissible Noise Levels for Construction Site

Column 1 Facility	Column 2 Maximum noise level permitted (Leq) in dB (A)	
	Day	Night
(i) Hospital, schools, institutions of higher learning homes for the disabled, etc	60	50
(ii) Buildings other than those prescribed in paragraph (i).	75	65

PART V

Maximum Permissible Noise Levels for Public Announcement System or Device

Column 1 Noise Control Zone	Column 2 Sound Level db (A) (Leq)	Column 3 Sound Level dB (A) (Leq)
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day 0800hrs – 1800hrs

Night 1800hrs – 2200hrs

The time frame takes into consideration human activity

PART VI

Maximum Permissible Noise Levels for Places or Establishment of Entertainment

Column 1	Column 2	Column 3
Noise Control Zone	Sound Level db (A) (Leq)	Sound Level dB (A) (Leq)
	Day	Night
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day 0800hrs – 1800hrs

Night 1800hrs – 2200hrs

The time frame takes into consideration human activity

PART VII
Maximum Permissible Noise Levels for Places or Areas of Worship

Column 1	Column 2	Column 3
Noise Control Zone	Sound Level dB (A) (Leq)	Sound Level dB (A) (Leq)
	Day	Night
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day 0800hrs – 2200hrs

Night 1800hrs - 2200hrs

The time frame takes into consideration human activity.

PART VIII
Maximum Permissible Noise Levels for Accelerating Vehicles

Column 1 VEHICLES CATEGORY	Column 2 MAXIMUM SOUND LEVEL IN dB (A)
1. Vehicles intended for carriage of passengers and equipped with not more than nine seats, including the driver's seat	78
2. Vehicles intended for carriage of passengers, and equipped with not more than nine seats, including the drivers seat and having maximum permissible mass of more than 3.5 tones –	
(a) with an engine power of less than 150KW	80
(b) with an engine power of less than 150 KW	83
3. Vehicles intended for carriage of passengers and equipped with more than nine seats including the drivers seat: vehicles intended for carriage of goods –	
(a) with a maximum permissible mass not exceeding 2 tones.	79
(b) with a maximum permissible mass exceeding 2 tones but not exceeding 3.5 tones.	80
4. Vehicles intended for the carriage of goods and having a maximum permissible mass exceeding 3.5 tones.	
(a) with an engine power of not less than 75 KW	81
(b) with an engine power of not less than 75 KW but less than 1.50 KW.	83
(c) with an engine power of not less than 150KW	84

PART IX

Maximum Permissible Noise Levels for Mines and Quarries

Column 1 FACILITY	Column 2 LIMIT VALUE IN Db (C)
1. For any buildings used as a hospital, school, convalescent home, old age, home or residential building.	109dB (C)
2. For any building in an area used for residential and one or more of the following purposes – Commerce, small-scale production, entertainment, or any residential apartment in an area that is used for purposes of industry, commerce or small-scale production or any building used for the purpose of industry commerce or small-scale production.	114 dB (C)

MADE this 28th day of July, 2020.

TOWN CLERK,
Gaborone City Council.

APPROVED this 31st day of August, 2020.

ERIC MOTHIBI MOLALE,
*Minister of Local Government and
Rural Development.*