By-laws relating to Noise and control thereof.

1/2/2/48

PLAASLIKE BESTUURSKENNISGEWING 414

STADSRAAD VAN MIDDELBURG, TRANSVAAL

GERAASBESTRYDINGSVERORDENINGE

Die Stadsklerk van Middelburg publiseer hierby ingevolge artikel 101 van die Ordonnansie op Plaaslike Bestuur, 1939, die Verordeninge hierna uiteengesit:

Woordomskrywings

1. Vir die toepassing van hierdie verordeninge, tensy uit die sinsverband anders blyk, beteken—

"geraas" enige klank wat die gerief of rus van iemand versteur of aantas of kan versteur of aantas of 'n oorlas veroorsaak;

"geraaspeil" die aflesing op 'n integrerende klankpeilmeter wat by die meetpunt geneem is aan die einde van 'n redelike tydperk nadat die integrerende klankpeilmeter in werking gestel is, gedurende welke tydperk die geraas wat na bewering 'n steurende geraas is, teenwoordig is, by welke aflesing 5 dB(A) gevoeg word indien die steurende geraas 'n suiwertoonkomponent bevat of impulsief van aard is;

"integrerende klankpeilmeter" 'n toestel wat 'n funksie van klankdruk oor 'n tydperk integreer en die resultaat in dB(A) aandui, welke dB(A)-aanduiding 'n funksie is van beide die klankpeil en die duur van die blootstelling aan die klank gedurende die meettydperk;

"Hoof: Gemeenskapsdienste" die Hoof: Gemeenskapsdienste van die Raad of iemand wat deur die Raad gemagtig is om namens hom op te tree of iemand deur die Raad aangestel om uitvoering aan die bepalings van hierdie verordeninge te gee;

LOCAL AUTHORITY NOTICE 414

TOWN COUNCIL OF MIDDELBURG, TRANSVAAL

BY-LAWS

The Town Clerk of Middelburg hereby, in terms of section 101 of the Local Government Ordinance, 1939, publishes the By-laws set forth hereinafter:

Definitions.

1. For the purpose of these by-laws, unless the context otherwise indicates—

"ambient sound level" means the reading of an integrating sound level meter measured at the measuring point at the end of a total period of at least 10 minutes after such integrating sound level meter has been put into operation during, which period a noise alleged to be a disturbing noise is absent;

"Council" means the Town Council of Middelburg and includes the Management Committee and any officer of the Council acting by virtue of any power vested in the Council by these by-laws and delegated to such committee or officer in terms of section 58 of the Local Government (Administration and Elections) Ordinance, 1960;

"disturbing noise" means a noise level which exceeds the ambient sound level by 7 dB(A) or more, and "disturbing" in relation to a noise shall have a corresponding meaning;

"integrating sound level meter" means a device integrating a function of sound pressure over a period of time and indicating the result in dB(A), which dB(A) indication is a function of both the sound level and the duration of exposure to the sound during the period of measurement;

"meetpunt"—

(a) met betrekking tot 'n stuk grond waarvandaan 'n steurende geraas afkomstig is, 'n punt anderkant die vertikale grense van die betrokke grond waar daar na die oordeel van die Hoof: Gemeenskapsdienste, 'n steurende geraas ooreenkomstig die bepalings van artikel 3 gemeet behoort te word; of

(b) met betrekking tot 'n gebou met meer as een okkupant, 'n punt in sodanige gebou waar 'n steurende geraas, na die mening van die Hoof: Gemeenskapsdienste, ooreenkomstig die bepalings van artikel 3 gemeet behoort te word;

"omgewingsklankpeil" die aflesing op 'n integrerende klankpeilmeter wat by die meetpunt geneem is, aan die einde van 'n totale tydperk van minstens 10 minute nadat sodanige integrerende klankpeilmeter in werking gestel is, gedurende welke tydperk 'n geraas wat na bewering 'n steurende geraas is; afwesig is;

"Raad" die Stadsraad van Middelburg en omvat die bestuurskomitee van daardie Raad of enige beampte aur die Raad in diens geneem, handelende uit hoofde van enige bevoegdheid wat in verband met hierdie verordeninge aan die Raad verleen is en wat ingevolge artikel 58 van die Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings), 1960 (Ordonnansie 40 van 1960), aan hom gedelegeer is;

"steurende geraas" 'n geraaspeil wat die omgewingsklankpeil met 7 dB(A) of meer oorskry, en "steurend" het, met betrekking tot 'n geraas, 'n ooreenstemmende betekenis.

Oortredings

2. (1) Niemand mag 'n geraas wat 'n steurende geraas is, maak, voortbring, veroorsaak of toelaat dat dit gemaak of voortgebring word deur 'n persoon, masjien, dier, voël, toestel of apparaat of enige kombinasie hiervan nie.

(2) Iemand wat die bepalings van subartikel (1) oortree, is skuldig aan 'n misdryf.

Meting van omgewingsklankpeil en geraaspeil

3. (1) Wanneer die omgewingsklankpeil of geraaspeil volgens die verordeninge gemeet en afgelees word, word sodanige meting en aflesing gedoen in die geval van—

(a) buitenshuise metings op 'n stuk grond met die mikrofoon van die integrerende klankpeilmeter minstens 1,2 m maar hoogstens 1,4 m bokant die grond en minstens 3,5 m weg van mure, geboue of ander klankweerkaatsende oppervlakte af;

(b) binnenshuise metings in 'n vertrek of ingeslote ruimte met die mikrofoon van die integrerene klankpeilmeter minstens 1,2 m maar hoogstens 1,4 m bokant die vloer en minstens 1,2 m weg van enige muur af, met al die vensters en buitedeure van die vertrek of ingeslote ruimte heeltemal oop.

(2) Die mikrofoon van 'n integrerende klankpeilmeter word te alle tye van 'n windskerm voorsien.

Bevoegdheid van die Hoof: Gemeenskapsdienste

4. (1) Indien die Hoof: Gemeenskapsdienste daarvan oortuig is dat 'n geraas wat vanuit 'n gebou of 'n perseel of vanaf 'n straat afkomstig is 'n steurende geraas is, kan hy die persoon wat sodanige geraas veroorsaak of daarvoor verantwoordelik is, of die eienaar van sodanige gebou of perseel waaruit of waarvandaan sodanige geraas afkomstig, of

"measuring point' means—

(a) in relation to a piece of land from which a disturbing noise is emitted, a point beyond the vertical boundaries of the land concerned where, in the opinion of the Chief: Community Services, a disturbing noise should be measured in accordance with the provisions of section 3; or

(b) in relation to a multi-occupancy building, a point in such building where, in the opinion of the Chief: Community Services a disturbing noise should be measured in accordance with the provisions of section 3;

"Chief: Community Services" means the Chief: Community Services of the Council or any person authorized by the Council to act on his behalf or any person appointed by the Council to give effect to the Provisions of these by-laws;

"noise" means any sound which disturbs the quiet or rest of a person or impairs or may disturb or impair or create a nuisance;

"noise level" means the reading on an integrating sound level meter take at the measuring point at the end of a reasonable period after the integrating sound level meter has been put into operation during which period the noise alleged to be a disturbing noise is present, to which reading 5 dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature;

Offences

2. (1) No person shall make, produce, cause or permit to be made or produced by any person, machine, animal, bird, device or apparatus or any combination of these, a noise which is a disturbing noise.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Measuring of ambient sound level and noise level

3. (1) When the ambient sound level or noise level is measured and read in terms of these by-laws such measurement and reading shall be done in the case of—

(a) outdoor measurements on a piece of land with the microphone of the integrating sound level meter at least 1,2 m but not more than 1,4 m above the ground and at least 3,5 m distant from walls, buildings, or other sound-reflecting surfaces;

(b) indoor measurements in a room or enclosed space with the microphone of the integrating sound level meter at least 1,2 m but not more than 1,4 m above the floor and at least 1,2 m distant from any wall, with all the windows and outside doors of such room or enclosed space completely open.

(2) the microphone of an integrating sound level meter shall at all times be equipped with a wind shield.

Powers of the Chief: Community Services

4. (1) If the Chief: Community Services, is satisfied that a noise emanating from any building, premises or street is a disturbing noise, he may, in a written notice, instruct the person causing or responsible for the disturbing noise or the owner of such building or premises on which the disturbing noise is caused, or both of them, within a period specified in

lasgewing vermeld is sodanige geraas te staak of te laat staak of die nodige stappe te doen om die peil van die steurende geraas te verlaag tot 'n peil wat aan die bepalings van hierdie verordeninge voldoen: Met dien verstande dat, indien die Hoof: Gemeenskapsdienste daarvan oortuig is dat die steurende geraas te wyte is aan, of veroorsaak word deur—

(a) die werking van—

(i) 'n masjien of apparaat wat nodig is vir die instandhouding of herstel van eiendom of die beskerming van lewe, eiendom of openbare dienste;

(ii) tuintoerusting;

(iii) 'n masjien of toestel waarvan die geraaspeil na die Hoof: Gesondheidsdienste se mening volgens die bes uitvoerbare metodes verlaag of gedemp is en wat dan nog steurend is;

(b) 'n sportbyeenkoms; of

(c) omstandighede of aktiwiteite buite die beheer van die persoon wat verantwoordelik is vir die veroorsaking van die steurende geraas, hy nadat die persoon wat sodanige geraas veroorsaak het of daarvoor verantwoordelik is skriftelik verlof tot die Hoof: Gemeenskapsdienste gerig het, oor die algemeen of in die besonder kan toelaat dat die werking van sodanige masjien, apparaat of toestel of sodanige sportbyeenkoms, omstandighede of aktiwiteit voortgesit word, onderworpe aan die voorwaardes wat hy dienstig ag.

(2) Die Hoof: Gemeenskapsdienste kan, indien dit tot sy kennis kom dat 'n persoon enige besigheid of bedrywigheid beoog, beplan of aanlê, wat 'n geraas in die gewone loop daarvan mag veroorsaak of op enige toekomstige tydstip, sodanige persoon aansê om 'n geraasimpakstudie te doen of te laat doen wat aan die vereistes van die Hoof: Gemeenskapsdienste voldoen, en dat sodanige persoon sodanige geraasimpakstudie aan die Hoof: Gemeenskapsdienste sal voorlê voor aanwending van enige beoogde, beplande of aangelegde bedrywigheid.

(3) Iemand wat versuim om aan 'n lasgewing ingevolge subartikel (1) of 2 te voldoen, is skuldig aan 'n misdryf.

Geraassteurnis

5. Ondanks die voorafgaande bepalings van hierdie Verordeninge, mag niemand—

(a) in enige straat of openbare plek of in of op enige perseel tussen 22:00 en 06:00 skreeu, sing of andersins enige harde geraas maak;

(b) enige radio, televisiestel, fonograaf, trom, musiekinstrument, klankversterker of soortgelyke toestel wat klank voortbring, weergee of versterk, bedien, bespeel of die bediening of bespeling daarvan magtig;

(c) enige waarskuwingstoestel, sirene, toeter of enige soortgelyke toestel gebruik of die gebruik daarvan magtig behalwe in 'n noodgeval of wanneer dit regtens vereis word;

(d) magtiging verleen of passief toelaat dat enige diefalarmtoestel of aanhoudend of met tussenposes langer as 20 minute lui nadat dit begin lui het;

(e) in óf op enige perseel enige dier of voël aanhou, besit, skuiling gee, of toelaat dat enige dier of voël in of op enige perseel aangehou, besit, of skuiling gegee word nie; of

(f) enige grassnyer, ander tuinmasjinerie of kraggereedskap tussen 14:00 en 16:00 op 'n Sondag gebruik of dit magtig dat dit gebruik word; wat, of op 'n manier wat, die gemak, gerief, rus of stilte van die publiek versteur of belemmer nie,

(g) Enige geraas veroorsaak of toelaat dat dit veroorsaak word nie

necessary steps to reduce the disturbing noise level to a level which complies with the provisions of these by-laws: Provided that if the Chief: Community Services is satisfied that the disturbing noise is due to or caused by—

(a) the working of—

(i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;

(ii) garden equipment;

(iii) a machine or device, the noise level of which has, in the opinion of the Chief: Community Services been reduced or muffled according to the best practicable methods and which continues to be disturbing;

(b) a sports meeting; or

(c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise; he may whether generally or specifically, after written representation to the Chief: Community Services by the person who caused or was responsible for the disturbing noise, permit the working of such machine, apparatus or device, or such sports meeting or circumstances or activities, to continue subject to such conditions as he deems fit.

(2) The Chief: Community Services may, if it comes to his attention that a person intends, plans or constructs a business or trade, which may create a noise in the normal commissioning thereof or at any time in the future may instruct such a person to conduct a noise impact study or have such study carried out which complies with the conditions of the Chief: Community Services, and such study must be submitted to the Chief: Community Services before commissioning any contemplated, planned or constructed operation.

(3) Any person who fails to comply with an instruction in terms of subsection (1) or 2 shall be guilty of an offence.

Noise disturbance

5. Notwithstanding the foregoing provisions of these by-laws, no person shall—

(a) in any street or public place or in or on any premises between 22:00 and 06:00 shout, sing or otherwise make any loud noise;

(b) operate, play or sanction the operation or playing of any radio, television set, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound;

(c) operate or sanction the operation of any warning device, siren, hooter or any similar device, other than in an emergency or when required by law;

(d) sanction or passively allow any burglar alarm device to sound either continuously or intermittently for more than 20 minutes after it has begun sounding;

(e) keep, possess or harbour in or on any premises any animal or bird, or sanction the keeping, possession or harbouring in or on any premises of any animal or bird; or

(f) operate or sanction the operation of any lawnmower, other garden machinery or power operated tool between 14:00 and 16:00 on a Sunday which may, or in a manner which may, disturb or hinder the comfort, convenience, piece or quiet of the public.

(g) Cause or permit a nuisance or noise to be caused

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Reg van toegang

6. Enige gemagtigde beampte van die Raad kan vir enige doel wat verband hou met die toepassing van hierdie verordeninge, sonder om vooraf kennis te gee, enige eiendom betree en sodanige ondersoek, navraag en inspeksie daarop doen wat hy dienstig ag, en hy, of 'n persoon aan wie hy opdrag gegee het, kan sodanige stappe doen as wat nodig is om die geraas stil te maak vir die doel om die omgewingsklankpeil te bepaal.

Dwarsboming

7. Iemand wat versuim of weier om toegang te verleen aan 'n beampte van die Raad wat deur die Hoof: Gemeenskapsdienste of deur die Raad gemagtig is om 'n eiendom te betree en te inspekteer of sodanige beampte dwarsboom of verhinder in die uitvoering van sy pligte kragtens hierdie verordeninge, of wat in gebreke bly of weier om inligting wat regtens van hom vereis kan word, te verstrek of wat valse of misleidende inligting aan sodanige beampte verstrek met die wete dat dit vals of misleidend is, is skuldig aan 'n misdryf.

Misdrywe en strawwe

8. Enige persoon wat—

(a) enige bepaling van hierdie verordeninge oortree of versuim om daaraan te voldoen; of

(b) versuim om te voldoen aan 'n opdrag wat gegee word of 'n voorwaarde wat gestel word ingevolge artikel 4, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens R300 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met beide sodanige boete en gevangenisstraf, en in die geval van 'n voortgesette oortreding, aan 'n boete van hoogstens R200 vir elke dag waarop sodanige oortreding voortduur.

W. D. FOUCHÉ,
Stadsklerk.

Munisipale Kantore
Wandererslaan
Posbus 14
MIDDELBURG
1050.

13 Mei 1992.

(Kennisgewing No. 9/V/1992.)

Right of entry

6. Any authorized officer of the Council may, for any purpose connected with the enforcement of these by-laws, and without previous notice, enter any property and make such examination, enquiry and inspection thereon as he deems fit, and he or any person instructed by him may take such steps as may be necessary to silence any noise for the purpose of determining the ambient sound level.

Obstruction

7. Any person who fails or refuses to give access to any officer of the Council authorized by the Chief: Community Services or by the Council to enter upon and inspected any property, or obstructs or hinders such officer in the execution of his duties under these by-laws, or who fails or refuses to give information which he may lawfully be required to give, or, gives to such officer false or misleading information knowing it to be false or misleading, commits an offence.

Offences and penalties

8. Any person who—

(a) contravenes or fails to comply with any provision of these by-laws; or

(b) fails to comply with an instruction given or condition imposed in terms of section 4, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding R300 or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment, and in the case of a continued offence, to a fine not exceeding R200 for each day on which such offence continues.

W. D. FOUCHÉ,
Town Clerk.

Municipal Offices
Wanderers Avenue
P.O. Box 14
MIDDELBURG
1050.

13 May 1992.

(Notice No. 9/V/1992.)