

Know Your Rights!

How to Deal with Noise Pollution

A short guide to help citizens to address noise pollution



What is Noise Pollution

We all know air pollution, water pollution, and soil pollution, but many of us are not aware that there is also something like noise pollution, mainly because it vanishes once/if the source of noise stops producing the noise.

Noise pollution is any unwanted or excessive sound and it can have very negative effects on human health, wildlife, and environmental quality. It can come from many sources, such as industrial activities, cars, motorcycles, Tuk Tuks, operating machines, nightclubs, radios, places of worship, noisy neighbors, and many more.

Many human activities generate noise, but it becomes noise pollution when it goes beyond a certain limit. This limit is defined by the effect the noise has on us, e.g. if we find it disturbing or distressing, if it irritates us, or if it prevents good sleep or the quiet environment that is needed for activities such as learning or doing homework. Article 42 of Kenya's Constitution gives everyone the right to a clean and healthy environment, free of all forms of pollution including noise pollution.

In Kenya, the state has realized that noise pollution is a problem and has introduced strict and clear rules and regulations to address this and protect its citizens. These rules and regulations apply to every person in Kenya and are laid out in **The Environmental Management and Coordination Act of 1999** and the Noise and Excessive Vibration Pollution Control Regulations of 2009, which provide the legal framework for noise control in Kenya. These regulations establish standards for noise emissions from various sources, and they are binding for everybody. They are law.

Is there any allowed noise?

In line with applicable Kenyan regulations, no person shall make or cause to be made any loud, unreasonable, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, or safety of others and the environment. In order to determine when noise is to be considered noise pollution, the law stipulates the decibels allowed from different sources that emit noise.

In Kenya, you have a right to a quiet environment!

The ENVIRONMENTAL MANAGEMENT AND COORDINATION (NOISE AND EXCESSIVE VIBRATION POLLUTION) (CONTROL) REGULATIONS (EMCA), 2009 even explicitly says: "No person shall use or operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that the noise from the device:

- a) interferes with the comfort, repose, health, or safety of members of the public;
- b) creates a risk thereof, within any building or, outside of a building, at a distance of 30 meters or more from the source of such sound; or

c) interferes with the conversation of members of the public who are 30 meters or more from the source of such sound.”

People can get one-time permission from authorities for certain activities such as single music events or a construction site to create excessive noise. These are given on a case-by-case base and have a strict time limit.

Does the loud night club or bar next to me have a permission to be so loud? _____

Most likely not because that would be against the law. Bars, nightclubs, and similar establishments are supposed to take out Environmental Impact Assessment (EIA) Licenses from NEMA that give conditions including the steps that they should take to minimize noise pollution.

Nightclubs and similar establishments may get permission on a case-by-case base to be louder than allowed by the legal limits, but there is no official permission to create loud noise on a continuous basis. For getting one-time permission, there is a process in place that might require consultations with affected neighbors. Even if permission was given, the organizer of an event has to do everything to minimize the disturbance of others, in all aspects. Every entity that emits loud noise on a continuous basis most likely operates illegally. If they want to play loud music, they need to invest in noise abatement technology, such as soundproof walls so that no loud noise can be heard outside their premises. Sometimes, bar owners show their license from the Music Copyright Society of Kenya (MCSK), pretending that this gives them the right to play loud music. This is not the case. The MCSK only allows them to play music that is copyrighted but not to play loud and disturbing music.

Am I against economic development if I am against noise? _____

Often, the argument is heard that being against noise is being against businesses or against economic development. Do not take that seriously. Noise is not the price of progress, and it is not a sign of prosperity. But it is a sign of recklessness, the absence of the rule of law, and the inability or unwillingness of authorities to do what they are paid for by taxpayers. Noise can make you sick and nobody has the right to do that to you or your children.

Many countries, also in Africa, have demonstrated that noise and any other form of pollution are not the price one must pay for economic development. To the opposite, businesses whose operations are based on violating the law seldom have a future—successful businesses are those that are operating within the rule of law. That is the reason why the Kenyan Government has put very modern, strict noise and other environmental regulations in place that require economic development to be carried out hand-in-hand with environmental conservation and protection. Additionally, the health of the people, especially the health of our children, must always be the priority.

What about places of worship? _____

Noise regulations also apply to places of worship. While on the one hand, they should be protected from noise — like schools, hospitals, and others — on the other hand, they are expected to ensure that neighbors are not disturbed by the noise produced by them and to keep the level of noise to a minimum, basically within their walls. The law acknowledges and promotes the freedom of worship but at the same time, this must be done while respecting and promoting the right to a clean and healthy environment.

What can I do against if I am disturbed by noise in my neighborhood?

Controlling noise pollution is now primarily a role of county governments. Noise control is part of the devolved functions under the constitution.

However, The National Environment Management Authority (NEMA) is also in a position to address noise complaints because it is the lead government agency that addresses all complaints relating to the environment, as the lead government agency responsible for implementing the EMCA.

NEMA is mandated to regulate and monitor pollution in Kenya and enforce compliance with the relevant pollution control measures.

If you are the victim of noise pollution, do the following to address it:

1. Call the Police

The police must help stop noise pollution because noise pollution is a criminal act. Calling the police will also help you avoid confronting the culprit directly. The police have the authority to take action by demanding that the noise polluters stop and can even make arrests or confiscate equipment.

If you are a tourist, you may also contact the Tourist Police, which is part of the Kenya Police Service. They specifically assist tourists and prevent harm from coming to them.

2. Complain to your County Government

File an official complaint with your County Government, in this case, the Kilifi County Government that is in charge of noise-related issues. Such a complaint should be in writing and sent by registered mail. There is, however, no guarantee that you will receive a response or that the County Government takes any action. You might consider writing to the County Governor directly.

Contact: Kilifi County Government,
P.O. Box 519 – 80108, Kilifi, Kenya,
Tel: 0200 200 200,

email: info@kilifi.go.ke,
website: <https://kilifi.go.ke/22-27/>

3. Reporting to NEMA (National Environment Management Authority)

If involving the police and/or the County Government does not help, making a formal report with the National Environmental Management Authority, abbreviated as NEMA, is an option. Here are the contacts at NEMA:

Popo Road, South C, off Mombasa Road
National Environment Management
Authority,

P.O.BOX: 67839-00200, Nairobi.

Fax: +(254)-020-6008997

Telephone:

020-2101370, 020-2183718,

020-2307281, 020-2103696

Mobile:

0724 253398, 0735 013046,

0723 363 010

Incident line:

0786-101100 or 0741 101 100,

Email:

incidence@nema.go.ke,

info@nema.go.ke

Website: www.nema.go.ke

In the event that a club does not adhere to the license conditions with respect to measures to minimize noise pollution, you can write to NEMA's Director General seeking to have the license revoked ([see above](#)).

4. Filing A Lawsuit

You can also sue noise polluters — including your neighbors — if you have evidence of their noise pollution activities in the form of video recordings or witness statements. A group of people can file these kinds of lawsuits, for example, a Neighborhood Association, or you can sue as an individual with the help of a lawyer.

What are noise polluters facing?

Noise polluters in Kenya may face the following consequences for their actions:

1. Closure of Business

NEMA has the authority to shut down the premises causing noise pollution either temporarily or permanently, depending on the severity of the offense.

2. Fines

Noise polluters can also face fines ranging from a few thousand to millions of shillings depending on the severity and damage caused by their pollution.

3. Imprisonment

Under circumstances where the noise polluter absconds court and refuses to pay fines, they can face imprisonment because noise pollution is also a criminal offense punishable by law.

Other ways to address noise problems ---

1. Addressing associated problems

Establishments, but also construction sites, that ignore noise regulations might most probably also ignore other regulations. You might want to address this together or instead of the noise issue.

These include regulations to protect against fire hazards, violations in relation to their liquor license, e.g. giving alcoholic drinks to minors, regulations regarding workplace safety, hygiene regulations for places that offer food and more, drug-related crimes, and endangering public safety by disturbing the traffic.

2. Involve your political representatives and or other persons of influence

You might decide to involve elders, religious leaders, political representatives, the mayor of your town, a county governor, a party leader, journalists, NGOs, and others in your case.

3. Go public

You might consider reaching out to the media to make the problem known to more people. Offenders of the law do not like publicity about their wrongdoings. You can reflect the bad environmental performance of a touristy place, with respect to noise generated, by writing an honest review on portals such as TripAdvisor, Google, Facebook, Yelp, and Expedia. Remember that noise is environmental pollution and that any place that advertises itself by its good environmental performance should not disturb others with noise, no matter the source.

What can I do if the police, the County Government or NEMA do not take action? ---

We have all seen situations in which police did not respond to our complaint, or when NEMA's actions did not deliver any results.

However, if you suspect that officers of the state did not fulfill their duty correctly, you could also file a complaint about them.

Here are some tips of filing such complaints:

IPOA Independent Policing Oversight Authority: The Authority considers complaints alleging misconduct or neglect of duty by the Police, or about Police practices, policies, and procedures affecting the complainant. You can make a complaint to the Authority online, in

writing, by email, or telephone.

Email complaints@ipoa.go.ke or write a letter to the Independent Policing Oversight Authority, **P. O Box 23035-00100, Nairobi, Kenya**

More information on: <https://www.ipoa.go.ke/how-to-complain/>

Kenya Police Internal Affairs Unit (IAU): Any member of the public who wishes to lodge a complaint may do so by any of the following ways:

- Visiting their offices/ nearest police stations
- Through letters to P.O Box 1880 – 00200 Nairobi or bring in person.
- Through email: info@iau.go.ke
- Social media: Twitter – @IAU_Kenya
- Mobile +254 798474619
- WhatsApp (Videos and Pictures) 0758729917
- Through the media e.g. TV, radio, print media

See also: <https://www.iau.go.ke/make-a-complaint/>

Betting and Control Licensing Office: You may wish to complain to this office if you believe that a liquor license should be withdrawn because of a violation of rules associated with liquor licensing.

P.O. Box 519 Near Ministry of Interior offices Malindi, Kilifi

County Director - Betting Control & Licensing office

Person in charge: Dickson Kazungu Thoya

Tel: +254 723 175 249

Email: dickbaya2thoya@gmail.com

<https://eregulations.invest.go.ke/procedure/422/step/2267?l=en>

Commission on Administrative Justice/Office of the Ombudsman: This addresses complaints on inaction by government officers. If an individual is not assisted in a government office, you can report to CAJ.

Head Office:

2nd Floor, West End Towers

Opposite Aga Khan High School

off Waiyaki Way - Westlands

P.O. Box 20414 – 00200, NAIROBI.

Tel: +254-20-2270000

info@ombudsman.go.ke

complain@ombudsman.go.ke

Mombasa Branch Office:

Mombasa Trade Centre
2nd Floor, North Wing, Nkrumah Road
(Former Ambalal House);
P.O. Box 80979 – 80100, MOMBASA.

Tel: +254 0731 011116 / 041 2315411mombasa@ombudsman.go.ke<https://www.ombudsman.go.ke/>

Complaint about NEMA: In case of NEMA's inactivity, you can send a complaint to the Director of the organization, Directors change, but currently, the Director General is Mamo Boru Mamo (see contacts above).

In case that does not help, you might want to complain to the Ministry of the Environment, Climate Change and Forestry of Kenya. Please see the contacts for the Ministry below.

Ministry of Environment, Climate Change
and Forestry of Kenya

Ragati Rd, NHIF BUILDING 12th Floor,
Nairobi

+254-20-2730808/9

psoffice@environment.go.keps@forestry.go.kecomplaints@environment.go.kecomplaints@forestry.go.ke

How can Watamu Association Assist You? _____

The Watamu Association is an independent non-political community organization that represents the interests of residents in Watamu. The Association works closely with the Kilifi County Council, area chiefs, and local police in Watamu. It is in a unique position to help improve the standards of our community as well as help individuals with their particular concerns.

Membership gives you access to the knowledge and contacts developed over 20 years of community service. The Watamu Association has a Working Group that focuses on noise pollution in Watamu.

Contact: vicechairman@watamuassociation.com **Website:** www.watamuassociation.com

Watamu Association thanks Kraid Advocates (<https://kraidadvocates.com/>), Nairobi, for providing legal advice for this leaflet!

Disclaimer: This leaflet has been put together with the intention to provide advice to the citizens of Watamu, based on the best knowledge available. The authors cannot guarantee that all addresses, phone numbers, and emails mentioned here are correct because these tend to change. Thus, we recommend checking the validity of contact information by visiting the websites of the relevant institutions. The content of this leaflet describes the status as of February 2024. Although the leaflet has been checked by a legal firm, we still recommend seeking legal assistance if you are the victim of noise pollution.