

## **Information and procedure with regard to Noise Nuisance Complaints.**

Information with regard to a noise nuisance **that did not occur in the presence** of the responsible Noise Control Officer of Council (Investigating Officer) therefore addressed in terms of Regulation 9 of the Noise Control Regulations of Gauteng 1999

Regulation 9 of the Noise Control Regulations of Gauteng 1999 (Provincial Gazette, Extraordinary no 75 of August 1999) defines a noise nuisance as **“any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person”**.

The person, whose convenience or peace is disturbed or impaired by any noise, is therefore entitled to lodge a complaint with this Department.

**The official of the Department investigating the complaint does not evaluate the noise in the case of noise nuisances** (transgression that did not occur in the presence of the Noise Control Officer **but issue a statutory notice** on the person causing the noise nuisance, or allow it to be caused, **on strength of the information provided by the complainant/s, in his/her official complaint supported by sworn statement/s.** (Subjective Assessment)

If the person on whom the Statutory Notice has been served, does not comply with the instructions set out in the notice and the noise nuisance continues, the investigating official must take the matter up with the Control State Prosecutor in order for a J175 (Notice to Appear in Court) to be issued. The only information the Control State Prosecutor will have to evaluate whether the State will be able to successfully bring the matter to its conclusion in Court, will be the statement of the Complainant that initiated the matter and support sworn statements of subsequent reoccurrences after the Statutory Notice had been served.

Although the Statutory Notice served on the person causing the noise nuisance or allowing it to be caused, is strongly worded and have, in most cases, the desired effect to resolve the matter, it remains the first step in instituting legal action. The complainant must therefore be prepared, once the process is set in motion by the issuing of the Statutory Notice, to avail him/herself as State Witness as he/she will be subpoenaed as such.

Therefore, if a person wishes to lodge a complaint with this Department with regard to a noise nuisance, it should be in the form of a sworn statement (Affidavit).

### 1. An affidavit;

- 1.1 is a, usually written in the first person, individualised, voluntarily statement of fact made by a person (deponent) about an incident/matter and how he/she experienced the incident and/or witnessed the incident, under oath and/or affirmation that it is the truth.

If more than one person experienced and/or witnessed a particular incident/matter each must make his/her own individualised, voluntarily statement of fact under oath and/or affirmation that it is the truth.

Deponent (a person who makes a statement and signs it under oath)

- 1.2 must be sworn and/or affirmed as being the truth and the deponent must sign in the presence of a person authorized in this capacity by law, whom is to certify in terms of the Regulations Governing the Administering of an Oath or Affirmation, R 1258 of 21 July 1972 as Amended, that

the deponent has acknowledged that he/she understands the contents of the statement, has no objection in taking the prescribed oath and/or affirmation, and considers the prescribed oath and/or affirmation binding on his/her conscience

This serves as evidence to the statement's authenticity and is required for legal action and court proceedings.

2. An Affidavit must;

2.1 identify the individual making the statement (deponent).

2.2 affirm where he/she resides.

2.3 state;

2.3.1 when

2.3.2 where

2.3.3 what happened

2.3.4 and how it effects and/or has impact on the deponent and what led up to the statement.

2.4 be to the point about the incident and facts related to it and verification thereof.

2.5 refer to and identify supporting evidence affixed, if any.

2.6 be signed by the deponent in the presence of the authorised person certifying that he/she acknowledges the content of the statement to be accurate and the truth and that he/she considers the prescribed oath and/or affirmation binding to his/her conscience.

3. An Affidavit may not;

3.1 be addressed to a specific person.

3.2 address unrelated incidents.

3.3 make assumptions or reflect hearsay as fact.

3.4 make demands.

3.5 be on behalf of a group of people.

4. By signing the affidavit, the subject is making an oath of honesty. All facts within the document must be true. If they are found to be false, the person making the statement may be punishable by law and/or guilty of contempt of Court.

**Affidavit**

I 2.1 Deponent full Names and Surname, Identification Number residing at 2.2 Physical Address hereby state/declares that on the 2.3.1 date at Time,  
an 2.3.3 incident occurred at 2.3.2 Number, Street, Suburb, Town that 2.3.4 Statement.

It negatively influences my life and/or impairs my peace as (if applicable) 2.3.4 Statement.

I verified that it originates from/happened at the above mentioned property 2.4 Statement and affix hereto as 2.5 Evidence  
Annexure "A" and Annexure "B"

It previously occurred History if any and action taken to resolve, if any

.....  
Deponent's Signature 2.6  
Contact details

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I certify that the deponent has acknowledged that he/she understands the contents of the above statement, has no  
objection in taking the prescribed oath and/or affirmation that it is the truth and considers the prescribed oath and/or  
affirmation binding on his/her conscience. 1.2

Sworn/Affirmed and signed before me at Place.....on the Day.....day of Mont..... 20 Year.....

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Ex Officio Commissioner of Oaths  
Full Name: .....  
Designation.....  
Business address: .....  
.....  
.....

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Refer to;

Danie Geldenhuys  
Environmental Health (Pollution Control)  
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