

Suisman Shapiro

Attorneys-At-Law

MEMORANDUM

TO: RTM Standing Committee

FROM: Nicholas F. Kepple, Waterford Town Attorney
Robert A. Avena, Waterford Town Attorney

DATE: August 29, 2022

RE: Public Health Committee Consideration of Various Towns' Enforcement of Noise Ordinances

The Town Attorneys have been requested to review nearby and statewide noise ordinances and each town's method of enforcing its ordinance, and to provide findings and recommendations regarding municipal noise enforcement.

To begin, we reviewed Section 9.06.090, entitled Enforcement-Violation-Penalty of Waterford's Ordinance to compare with other town's ordinance enforcement provisions. Waterford's Noise Ordinance states that a police officer shall be responsible for determining through noise level measurements that a violation of the Noise Ordinance has occurred. Most of the Towns we contacted or reviewed their noise regulations, designated its police department as the enforcement agency, including the recently adopted (August 2021) ordinance of the Town of Winchester, CT (see Exhibit A). Winchester's citation officer/hearing method of enforcement is similar to other noise ordinances listed below.

Among all the noise ordinances we reviewed and discussed with several town attorneys and police departments, most, like Waterford, did not typically pursue criminal charges against noise violations. Rather, most communities rely on civil fines and penalties, enforceable if not timely paid (or appealed), by superior court civil judgments (see list on Exhibit B). We have discussed various enforcement proposals with Chief Balestracci, and he agreed that noise violators can best be dealt with in a manner similar to traffic and towing violations before the Town's appointed hearing officer. In several towns, civil fines are doubled for each violation, up to a maximum amount of \$400.00 per day.

If strengthening the ordinance through civilian citations is an avenue the Standing Committee wishes to pursue, we will be recommending modifications to the enforcement section of the Waterford Noise Ordinance to clarify the procedures to be taken regarding civil enforcement, penalties and the procedure for an appeal to the Town Hearing Officer. In addition, we will likely be recommending additional language to give the Police Department flexibility to determine if further charges, such as Breach of Peace or Creating an Unlawful Disturbance, may be pursued instead, with appropriate criminal prosecution. We also would point out, pursuant to Connecticut State Regulation §22a-69-1.5, that private nuisance claims are still a viable remedy for Waterford residents, and are separate from any enforcement action taken under the Town Noise Ordinance.

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Please note that effective July 1, 2022 the DEEP is no longer responsible for reviewing and approving proposed noise ordinances or amendments, provided the proposed Noise Ordinance amendment's levels are no lower than those established by State DEEP regulation.

NFK/RAA/pmn
Attachments

Exhibit A

Winchester

Section 195

Noise

§ 270-1 Purpose.

It is the intention of this article to carry out and effectuate the public policy of the State of Connecticut, the federal government, and the Town of Winchester concerning the regulation of those activities causing measurably excessive noise and noise disturbance within the Town of Winchester. It is recognized that excessive noise is a serious hazard to health, welfare, and quality of life for all citizens and that each person has a right to an environment free from noise that may jeopardize their health, safety, or welfare.

§ 270-2 Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

Background Noise: Noise which exists at a point as a result of the combination of many distant sources. Individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time (L90) in which the measurement is taken.

Commercial Zone: Those areas designated for commercial use in the Zoning Regulations of the Town of Winchester, also known as "Highland Lake Business District," "Town Center," and "Town Gateway" Zones.

Daytime Hours: Hours between 7:00 AM and 9:59 PM, Monday through Saturday, and the hours between 9:00 AM and 9:59 PM on Sundays and federal and state holidays.

Decibel: A unit of measurement of sound levels.

Emergency: Any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action or any occurrence involving prolonged power outages.

Excessive Noise: Any sound, the intensity of which exceeds the standard set forth in Section 3 of this article.

Impulse Noise: Noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

Industrial Zone: Those areas designated for industrial use in the Zoning Regulations of the Town of Winchester, also known as "Production & Innovation" Zones.

Intrusion Alarm: A device with an audible signal which, when activated, indicates intrusion by an unauthorized person. Such alarm may be attached to, or within, a building, structure, property, or vehicle.

Lawn Care & Maintenance Equipment: All engine or motor-powered garden or maintenance tools intended for occasional use in residential districts, typically capable of being used by a homeowner, including, but not limited to, lawn mowers, riding tractors, snowblowers, and including equipment intended for infrequent service work in inhabited areas, typically requiring skilled operators, including but not limited to chainsaws, log chippers, or paving rollers.

Motor Vehicle: Shall be given that meaning which is provided for by Connecticut General Statutes § 14-1(a)(47).

Nighttime Hours: Any hours not designated as "Daytime Hours," as defined above.

Person: Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the State or other legal entity of any kind.

Premises: Any building, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements owned or controlled by a person.

Property Line: That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

Residential Zone: Those areas designated for residential use in the Zoning Regulations of the Town of Winchester, also known as "Highland Lake District," "Rural Residential," "Town Center Residential," and "Town Single Family" Zones.

Sound: A transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

Sound Level Meter: An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to the ANSI Specifications for Sound Level Meters, S1.2-1971.

§ 270-3 Noise levels and guidelines.

- A. Noise zones within the Town of Winchester shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and the surrounding parcels or tracts on which noise is received, provided that any parcel whose use is lawfully nonconforming to its zone at the time this article is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of their premises in excess of the noise levels established in this section. Measurements shall be taken at a point that is located approximately one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes their individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

Zone in which Emitter is Located	Zone in which Receptor is Located (all measurements in dBA).			
	Production & Innovation	Highland Lake Business District Town Center Town Gateway	Highland Lake District Rural Residential Town Center Residential Town Single Family	
			Daytime Hours	Nighttime Hours
Production & Innovation	70	66	61	51
Highland Lake Business District Town Center Town Gateway	62	62	55	45
Highland Lake District Rural Residential Town Center Residential Town Single Family	62	55	55	45

- B. No person shall cause or allow the emission of impulse noise in excess of 80 decibels' peak sound pressure level during Nighttime Hours to any residential zone. No person shall cause or allow the emission of impulse noise in excess of 100 decibels' peak sound pressure level at any time to any zone.
- C. A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters as defined by this article.

§ 270-4 High Background Noise Areas

In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by five dBA, provided that no source subject to the provisions of Section 3 of this article shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels set forth in any other section of this article.

§ 270-5 Exclusions.

Maximum noise levels established in Section 3 of this article shall not apply to any noise emitted or related to:

- A. Natural phenomena.
- B. Any bell or chime from any building clock, school, or church.
- C. Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation. This exclusion does not include, however, intrusion alarms attached to any building, structure, or property that does not terminate within 30 minutes after being activated or any intrusion alarm attached to a vehicle not terminating within 10 minutes after being activated. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care should be considered excessive noise.
- D. Warning devices required by OSHA or other state or federal safety regulations.
- E. Noise created as a result of an emergency, including, but not limited to, the use of personal or commercial electrical generators.
- F. Noise created by lawn care and maintenance equipment utilized during daytime hours, as that term is defined in this article, provided that noise discharge from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.
- G. Activities specially licensed under permit from the Town of Winchester, including, but not limited to, parades, sporting events, and firework displays. This exclusion applies only if noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noise therefrom. Moreover, patriotic or other public celebrations may not extend longer than one calendar day.
- H. Noise from snow removal equipment, provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- I. Utility maintenance, including, but not limited to, the removal of fallen trees and the installation and repair of utility wires and poles.
- J. Town of Winchester construction, road repair, and tree removal operations.
- K. The repair of buildings owned by the Town of Winchester.
- L. Activities conducted by the Town of Winchester in a governmental capacity or by the State of Connecticut or by the federal government of the United States of America.
- M. Properties that have a pending noise variance application under Section 9 hereof.

§ 270-6 Motor vehicle noise.

- A. All motor vehicles operated on public roads within the limits of the Town of Winchester shall be subject to the noise standards and decibel levels act set forth by the Connecticut General Statutes, §§ 14-80 and 14-80a, and the regulations issued thereunder.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 3 hereof.

§ 270-7 Enforcement and penalties.

The Winchester Police Department shall enforce the provisions of this article pertaining to the measurement of noise levels and the issuance of notices of violation. Any person in violation of any section of any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$100. In lieu of arrest and issuance of a summons, the Winchester Police Department may serve upon a violator an infraction notice which shall be known as a noise ticket. Payment of the fine prescribed by such noise ticket within the time limit and to the address specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Each day a violation continues after the time for correction of the violation has been given in a written order, or after the issuance of a summons or infraction notice, shall constitute a continuing, separate violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred dollars (\$400) per day. In the event payment of the fine is not made and an appeal has not been taken as provided herein, the violator shall be responsible for any and all costs of collection, including attorneys' fees. The imposition of any fine hereunder shall not prevent the enforced abatement of any unlawful condition by the Town and the Town shall have the right to pursue any remedy allowed under law.

§ 270-8 Appeal process.

Whenever a fine is imposed under this Ordinance, the person fined may, within ten (10) days from the date of issuance of the noise ticket, appeal by filing a written notice of appeal with the Winchester Chief of Police. The filing of an appeal shall stay any fine imposed until such time as a decision is rendered by a Town Citation Hearing Board in accordance with the procedure for hearings set forth.

The provisions of this Ordinance may be enforced by citation and hearing as permitted by Conn. Gen. Stat. Section 7-152(c).

In the event a decision on an appeal is rendered in favor of the Town and, if permitted by law, the Town shall be entitled to recover its costs incurred in defending such matter, including attorneys' fees.

§ 270-9 Variances.

- A. Any person living or doing business in Winchester may apply to the Chief of Police for a variance from one or more of the provisions of this Ordinance, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided the applicant supplies all of the following information to the Chief of Police at least twenty (20) days before the start of such activity:
 - a. The location and nature of the activity;
 - b. The time period and hours of operation of such activity;
 - c. The nature and intensity of the noise that will be generated; and

- d. Any other information required by the Chief of Police.
- B. No variance from this Ordinance shall be issued unless it has been demonstrated that:
 - a. The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations;
 - b. The noise levels generated by the proposed activity will not constitute a danger to the public health; and
 - c. Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- C. The application for variance shall be reviewed and either approved or rejected at least five (5) days before the proposed start of such activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- D. A variance granted to a business shall be considered void in the event that business changes the size, quantity, location, or use of the noise-emitting equipment or machinery that they possess, or in the event that the business changes their location or hours of operation.
- E. In the event a variance is voided, nothing in this ordinance shall prohibit a resident or business owner from applying for a new variance. In the event a variance application is denied, the owner of the property in question may not apply for a new variance for that property for ninety (90) days following the date of denial and, in the new variance application, must detail the substantive changes that have been made to reduce noise levels at that property since the previous application was submitted.

Exhibit B

Trumbull
Bethlehem
Westbrook
Norwalk
Seymour
East Lyme
Enfield
New London
Waterford
Outdoor Dining Regulation
Law Tribune Article

Town of Trumbull Noise Control Ordinance**ARTICLE 111. NOISE****Sec. 13-46. Short Title.**

This article may be cited as the town noise control ordinance.

Sec. 13-47. Purpose.

Pursuant to the general authority of Connecticut General Statutes 7-148, and the specific authority of Connecticut General Statute 22a-73(c), It is hereby resolved that, to preserve and promote the health, safety and general welfare of the citizens of the Town of Trumbull (the "Town"), it is in the common interest to enact reasonable regulations pertaining to the reduction, control and or prevention of noise so as to promote a general environment free from excessive noise and vibration.

Sec. 13-48. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.

Ambient noise or background noise: Shall mean noise of a measurable intensity, which exist at a point as a result of a combination of many distant sources individually indistinguishable. In statistical terms, It is the level, which exceeds ninety (90) per cent of the time (L90) in which the measurement is taken.

Commercial zone: Shall mean all Commercial zones and business zones, (B-C) as defined in the zoning regulations of the Town. Any use, which is non-conforming, shall be deemed to be in the zone which corresponds to the actual use.

Chief of Police: Shall mean the Chief of Police of the Town of Trumbull or a duly authorized officer subject to his orders.

Construction: Shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities, or similar property.

Day: Shall mean the hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 9:00 p.m. on Sundays.

Decibel: Shall mean a logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

Demolition: Shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Domestic power equipment: Shall mean, but not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

Town of Trumbull Noise Control Ordinance

Emergency: Shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

Emergency vehicle: Shall mean any motor vehicle authorized by the Town to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.

Emergency work: Shall mean work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

Impulse noise: Shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

Industrial zone: Shall mean all industrial zones (I-L, I-L2, I-L3), as defined in the zoning regulations of the Town. Any use, which is non-conforming, shall be deemed to be in the zone which corresponds to the actual use.

Loud amplification device or similar equipment: Shall include, but not limited to, a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker or sound amplifier which is operated in such a manner that it creates noise.

Motor vehicle: Shall be defined as per Section 14-1(47) of the Connecticut General Statutes.

Muffler: Shall mean a device for abating sounds such as escaping gases.

Noise: Shall mean any sound, the intensity of which exceeds the standards set forth in section 13-50 of this chapter, or, relative to a motor vehicle, plainly audible at a distance of one hundred (100) feet from the same.

Night: Shall mean the hours between 9:00 p.m. and 7:00 a.m., Sunday evening through Saturday morning, except that night shall mean the hours between 9:00 p.m. Saturday and 9:00 a.m. Sunday.

Noise level: Shall mean the sound pressure level as measured with a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

Person: Shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state or other legal entity of any kind.

Premise: Shall mean any building, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned or controlled by a person. The emitter's premise includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and water of the state.

Town of Trumbull Noise Control Ordinance

Property line: Shall mean that real or imaginary line along the ground surface and its vertical extension which:

- (a) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; and
- (b) Separates real property from the public right-of-way.

Public right-of-way: Shall mean any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad, or similar place, which is owned or controlled by a governmental entity.

Recreational vehicle: Shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.

Residential zone: Shall mean all residential zones, (AAA, AA, A, PRCZ, PAHZ), as defined in the zoning regulations of the Town. Any use, which is non-conforming, shall be deemed to be in the zone, which corresponds to the actual use.

Sound: Shall mean a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

Sound level meter: Shall mean an instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4-1971 (Type S2A).

Sound pressure level: Shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) microneutons per square meter (20×10^6 Newtons/meter²), and is expressed in decibels (dB).

Sec. 13-49. Noise level measurements procedures.

For the purpose of determining noise level as set forth in this article, the following guidelines shall be applicable.

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation;
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters, as defined in this article;

Town of Trumbull Noise Control Ordinance

- (3) The general steps listed below shall be followed when preparing to take sound level measurements;
- a. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
 - b. The sound level meter shall be calibrated before and after each set of measurements;
 - c. When measurements are taken out-of-doors, a wind screen shall be placed over the microphone of the sound level meter, as per the manufacturer's instructions;
 - d. The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements;
 - e. Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premise within the receptors premise. The emitter's premise includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

Sec. 13-50. Noise levels.

- (a) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premise in excess of the noise levels established in these regulations.
- (b) Noise level standards;
 1. No person in a residential zone shall emit noise beyond the boundaries of his/her premise exceeding the levels stated herein and applicable to adjacent residential, commercial, or industrial zones;

Emitter's zone:

Residential

Receptor's Zone: _____ Maximum Level:

Industrial.....62 dBA

Commercial.....55 dBA

Residential/Day.....55dBA

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Residential/Night.....45dBA

2. No person in a commercial zone shall emit noise beyond the boundary of his/ her premise exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone:**Commercial****Receptor's Zone:** **Maximum Level:**

Industrial.....62dBA

Commercial.....62dBA

Residential/Day.....55dBA

Residential/Night.....45dBA

3. No person in an industrial zone shall emit noise beyond the boundary of his/her premise exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone:**Industrial****Receptor's Zone:** **Maximum Level:**

Industrial.....70dBA

Commercial.....66dBA

Residential/Day.....55dBA

Residential/Night.....45dBA

4. Any use which is non-conforming shall be deemed to be in the zone which corresponds to the actual use.

- (c) High background noise levels and impulse noise:

Town of Trumbull Noise Control Ordinance

1. In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this section, does not decrease the permissible levels of other sections of this chapter.
2. No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during the nighttime to any residential noise zone.
3. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure level at any time to any zone.

(d) Exclusions: These levels shall not apply to noise emitted by or related to:

1. Natural phenomena;
2. The un-amplified human voice;
3. Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided however, that burglar alarms on motor vehicles not terminating within ten (10) minutes or on buildings not terminating within thirty (30) minutes after being activated shall be unlawful. Notwithstanding the foregoing, repetitive activation of any alarm system due to malfunction or lack of proper maintenance shall not be excluded;
4. Warning devices required by OSHA or other state or federal safety regulations;
5. Farming equipment or farming activities;
6. Home and commercial generators during periods of lost power;
7. Nighttime public road maintenance and line painting;

(e) Exemptions: The following shall be exempt from these regulations, subject to special conditions as spelled out:

1. Noise generated by any construction equipment, which is operated between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.

Town of Trumbull Noise Control Ordinance

2. Noise created as a result of, or relating to an emergency;
3. Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, and between the hours of 9:00 a.m. and 8:00 p.m. on Sundays, provided that noise discharge from exhaust is adequately muffled;
4. Noise from snow removal equipment, provided equipment is maintained in good repair and exhaust is adequately muffled;
5. Noise from demolition work conducted between the hours of 7:00 a.m. and 6:00 p.m., provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation;
6. Noise created by any aircraft flight operations that are specifically preempted by the Federal Aviation Administration;
7. Noise created by any religious or recreational activities which are permitted by law and for which a lease, license or permit has been granted by the Town, including but not limited to outdoor evangelistic meetings and preaching or parades, sporting events, concerts and firework displays;
8. Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m., local time, at specific hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities;
9. Noise created by solid waste and recycling collection between the hours of 7 a.m. and 6 p.m.

Sec. 13-51. Prohibited noise activities.**The following activities are prohibited:**

1. **Vehicle horns:** No person shall at any time sound any horn or other audible signal device of a motor vehicle, unless it is necessary as a warning to prevent or avoid a traffic accident;
2. **Advertising:** No person shall at anytime use any drum, bell or other instrument or device for purpose of attracting attention to any performance, show or sale, or to the display or advertisement of merchandise;

Town of Trumbull Noise Control Ordinance

Sec. 13-52. Motor and Recreational vehicle noise.

- (a) All motor and recreational vehicles within the limits of the Town shall be subject to the noise standards and decibel levels as found in Title 14, Section 14-80a of the Connecticut General Statutes.
- (b) No motor or recreational vehicles shall emit noise from a loud amplification device or similar equipment plainly audible at a distance of one hundred (100) feet from such vehicles by a person of normal hearing, or such noise emitted shall not be in excess of the noise levels specified in this ordinance, except that loud speakers or public address systems are allowed provided prior to use thereof a permit has been obtained from the Town.

Sec. 13-53. Inspections.

- (a) For the purpose of determining compliance with the provisions of this article, the chief of police or his designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests, whenever necessary, to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing or noise measurement of any activity, device, facility, or process where inspection is sought, the chief of police or his designated representative may seek from the appropriate court a warrant, without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.
- (b) It shall be unlawful for any person to refuse to allow or permit the chief of police or his designated representative free access to any premise, when the chief of police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- (c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.
- (d) No person shall hinder, obstruct, delay, resist, prevent in any way, interference or attempt to interfere with any authorized person while in the performance of his/her duties under this article.

Sec. 13-54. Enforcement.

- (a) Any person aggrieved by any act constituting a violation of this article may complain to the police department who shall enforce this article.

Town of Trumbull Noise Control Ordinance

- (b) The police are also authorized to enforce this article without any such complaint.

Sec. 13-55. Penalties.

- (a) Violators may be served with a infraction notice, which shall be known as a "Noise Ticket". Payment of the fine prescribed by such Noise Ticket within the time specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offence sited. Fines shall be in the amount of \$75.00 for the first offence, and \$100.00 for each subsequent offence.
- (b) Said fine amounts as may be levied may be adjusted without further municipal action so as to be in conformity with the State of Connecticut, Superior Court, Mail in Violations and Infractions Schedule, as it may be amended from time to time. Nothing in this ordinance shall prevent the police department, because of the perceived nature of the offence, from proceeding not under the terms of this ordinance, but under the provisions of Connecticut General Statute 53a-181, 53a-181a, and 53a-182, as they may be amended from time to time, which sections relate, generally to breach of peace, creating a public disturbance, and disorderly conduct, ect.

Town of Trumbull Noise Control Ordinance

Sec. 13-56. Variances and contracts.

(a) Variances.

- (1)** Any Person living or doing business in the town may apply to the Trumbull Monroe Regional Health District for a variance from one (1) or more of the provisions of this article, which are more stringent than the state Department of Environmental Protection regulations for the control of noise, provided that the applicants supplies all of the following information to the Director of Health:
 - a. The location and nature of the activity;
 - b. The time period and the hours of operation of the activity;
 - c. The nature and intensity of the noise that will be generated; and
 - d. Any other information required by the Director of Health
- (2)** No variance from this article shall be issued unless it has been demonstrated that:
 - a. The proposed activity will not violate any provisions of the state Department of Environmental Protection regulations;
 - b. The noise levels generated by the proposed activity will not constitute a danger to the public health; and
 - c. Compliance with this article constitutes an unreasonable hardship on the applicant.
- (3)** The application for the variance shall be reviewed and either approved or rejected within fifteen (15) days of the receipt by the Director of Health. The approval or rejection shall be in writing and shall state the conditions of approval of the variance.
- (4)** Failure to rule on the application in the designated time shall constitute approval of the variance.

- (b) Recourse.** Any person aggrieved by the decision of the Director of Health with the respect to any variance may appeal same to the Zoning Board of Appeals within a period of ten (10) days of receipt of the Health Director's decision.

Town of Trumbull Noise Control Ordinance

- (c) *Contracts.* Any written agreement, purchase order or contract whereby the town is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this article will be operated, constructed, conducted or manufactured without violating the provisions of this article.
(Res. No. TC11-57, 8-4-86)

Sec. 13-57. Conflicting provisions.

All provisions of the zoning regulations of the town which are more stringent than those set forth in this article shall remain in force. If, for any reason, any word, clause, paragraph or section of this article shall be held to make the same unconstitutional, this article shall hereby be invalidated and the remainder of this article shall continue in effect. Any provision herein which is in conflict with the state statutes or the public health code of this state are hereby repealed, it being understood that such statutes and code shall take precedence over this article.

(Res. No. TC11-57, 8-4-86)

TOWN OF BETHLEHEM

TOWN MEETING

March 33, 2021

NOISE ORDINANCE

§135-1 Purpose.

The people of the Town of Bethlehem should be free of unwanted, excessive noise and vibration that jeopardize the public health and peace. This Ordinance is to protect, preserve, and promote the public health, safety, welfare, and quality of life pursuant to General Statutes §22a-73, §7-148(c)(7)(E), and §7-148(c)(7)(H)(viii) and (xi).

§135-2 Noise Level Limits.

- A. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises where in excess of 55 dBA at the receptor's site between the hours of 7:00 AM and 10:00 PM.
- B. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of 45 dBA at the receptor's site between the hours of 10:00 PM and 7:00 AM.
- C. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this Chapter.

§135-3 Noise Level Measurement.

For the purpose of determining noise levels as set forth in this Chapter, the following guidelines shall apply:

- A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.
- B. Instruments used to determine sound-level measurements shall conform to the performance any performance standards required by the Department of Energy and Environmental Protection.
- C. The general steps listed in §135-5 "Instrumentation" shall be followed when preparing to take sound level measurements.

§135-5 Instrumentation.

RECEIVED

MAR 09 2021

CT DEPT OF ENERGY &
ENVIRONMENTAL PROTECTION
COMMISSIONER'S OFFICE

**Town of Bethlehem
Selectmen's Office**
36 Main Street South * PO Box 160
Bethlehem, CT 06751-0160
(203)266-7510 * fax (203)266-7670

Commissioner Katie Dykes
CT DEEP
79 Elm St
Hartford CT 06106

March 3, 2021

Re: Town of Bethlehem

Dear Commissioner Dykes,

Enclosed please find a noise ordinance to be adopted by the Town of Bethlehem subject to your approval.

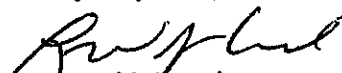
This ordinance will not become effective until your approval is granted in accordance with Section 22a-73(c) and paragraph 135-12 of the Ordinance.

An expedited review and approval will be greatly appreciated.

If your office has any questions or comments please feel free to contact me at 203-509-7651 or llassard@bethlehemct.org.

Thank you for your attention in this matter.

Very Truly Yours,


Leonard J. Assard
First Selectman

Enc.

J. Noise generated by any religious or recreational activities permitted by law, including but not limited to outdoor evangelistic activity, preaching, parades, sporting events, concerts, and fireworks displays.

K. Noise generated by engine/motor powered lawn care or yard maintenance equipment shall be exempted between the hours of 7:00 AM and 9:00 PM, provided that noise discharged from exhausts is adequately muffled to prevent any explosive noises therefrom.

L. Noise from demolition work conducted between 8:00 AM and 6:00 PM, provided that when considered emergency work, demolition shall be exempted at all times during such emergency work.

M. Noise generated by construction equipment which is operated between the hours of 7:00 AM and 6:00 PM used for projects duly permitted, if applicable by the appropriate Town board(s) or commission(s); or noise generated by construction equipment used on Town infrastructure projects.

N. Noise generated by snow removal equipment, provided equipment is maintained in good repair and exhaust is adequately muffled.

§135-7 Enforcement and Inspection.

A. The Town, through its Board of Selectmen and pursuant to General Statutes §22a-73(b)(2), shall designate a Noise Control Officer. Said Officer shall be knowledgeable in the calibration and use of the noise measuring instrumentation. The Noise Control Officer shall provide a written report of each documented violation of this Chapter to the Bethlehem Resident State Trooper. Such report shall include the date and time of offense, noise level reading, location of offense, and party allegedly in violation of this Chapter. It shall be in the discretion of the Resident State Trooper whether to issue a warning or citation to anyone in violation of this Chapter.

B. The Noise Control Officer and Resident State Trooper are authorized to make inspections of all noise sources and take measurements and make tests, whenever necessary, to determine the quality and character of the noise. If any party refuses or restricts entry to the premises in question, or refuses testing and inspection, the Resident State Trooper may seek a search warrant from a court of competent jurisdiction.

C. No person shall hinder, obstruct, delay, or interfere with the enforcement of this Chapter.

§135-8 Penalties.

Any party who violates the provisions of this Chapter shall be fined not more than \$100 per violation, or the maximum fine allowed for such violations under Connecticut law, whichever is less. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.

The sound-level meter shall be calibrated before and after each set of measurements.

When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound-level meter as per the manufacturer's instructions.

The sound-level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions, and be at least four (4) feet above the ground.

The meter shall be placed as to not be interfered with by individuals conducting the measurements.

Measurements shall be taken at a point that is located about one (1) foot beyond the boundary of the emitter's premises and within the receptor's premises. The emitter's premises include his/her individual unit of land, or ground of contiguous parcels under the same ownership as indicated by public land records.

§135-6 Exemptions.

Notwithstanding the foregoing, the following shall be exempted from the above restrictions.

- A. Natural phenomena.
- B. Any bell or chime of a school, public clock, or church.
- C. Any siren, whistle, bell, or similar apparatus of an emergency vehicle, public emergency service, or alarm system in an emergency situation; provided, however, than any repetitive activation of a burglar or similar alarm due to the negligence of the owner, lack of proper maintenance, or malfunction shall not be exempted.
- D. Warning devices required by state, federal, or local workplace safety laws and regulations.
- E. Farming/agricultural equipment and farming/agricultural activity as defined by section 1-1 (q) of the Connecticut General Statutes.
- F. Lawful discharge of a firearm between the hours of 6:00AM and 9:00PM.
- G. Power-generating equipment operated during an emergency or during a power outage.
- H. Cellular telecommunications facilities and their appurtenances, including transmissions lines.
- I. Power generation facilities owned by a public utility.

§135-9 Civil Remedies.

This Chapter may be enforced by injunction, action for abatement, or other appropriate civil remedy.

§135-10 Definitions.

As used in this Ordinance, the word "person" includes, without limitation, any individual, corporation, firm, partnership or other business entity.

§135-11 Severability.

Should any provision of this Chapter be declared invalid for any reason, such declaration shall not affect the validity of other provisions of this Chapter as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and that the remainder shall be valid.

§135-12 Subject to Approval of Commissioner of Energy and Environmental Protection.

Pursuant to General Statutes §22a-73(c), this ordinance shall not be effective until it has been approved by the Commissioner of Energy and Environmental Protection.

§135-13 Effective Date.

This ordinance shall take effect fifteen (15) days after publication of a summary of its provisions pursuant to Connecticut General Statutes, §7-157(b).

Adopted by town meeting on _____, _____, 2021.

Published in the _____, on _____, _____, 2021.

Effective date: _____, _____, 2021.

Recorded in the Bethlehem Town Records: Vol. _____, Pg. _____.

Chapter 12 NOISE*

*State law references: Authority to prevent disturbing noises, G.S. § 7-148(c)(7)(H)(viii).

Sec. 12-1. Short title.

This chapter shall be known as the town noise control ordinance.
(Ord. of 6-22-81(5), § 1)

Sec. 12-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient noise or background noise means noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable. In statistical terms, it is the level which is exceeded ninety (90) percent of the time in which the measurement is taken.

Commercial zone means commercial district, commercial boating, turnpike interchange commercial district, as defined in the zoning regulations of the town and all uses associated therewith either permitted as a right or as a special use.

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

Construction equipment means any equipment or device operated by fuel or electric power used in construction or demolition work.

Daytime hours means the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours of 9:00 a.m. through 10:00 p.m. on Sundays.

Decibel means logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Domestic power equipment means, but is not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency vehicle means any motor vehicle authorized by the town to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

Emergency work means work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

Impulse noise means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

Industrial zone means industrial district as defined by the zoning regulations of the town.

Motor vehicle means that term as defined in section 14-1(26) of the General Statutes.

Muffler means a device for abating sounds such as escaping gases.

Nighttime hours means the hours between 10:00 p.m. and 7:00 a.m., Sunday evening through Saturday morning, except that night shall mean the hours between 10:00 p.m. Saturday and 9:00 a.m. Sunday.

Noise means any sound, the intensity of which exceeds the standards set forth in section 12-5(b).

Noise level means the sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Premises means any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

Property line means that real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

Recreational vehicle means any internal combustion engine-powered vehicle which is being used for recreational purposes.

Residential zone means all residential districts, R.R., L.R., M.L.R., M.H.R., H.R. and commercial where used for residential purposes, as defined in the zoning regulations of the town and all uses associated therewith either permitted as a right or as a special use.

Sound means a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which in air evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

Sound level meter means an instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters SI. 4-1971 (Type S2A).

Sound pressure level means twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

(Ord. of 6-22-81(5), § 3)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 12-3. Purpose.

It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of the town through the reduction, control and prevention of noise.

(Ord. of 6-22-81(5), § 2)

Sec. 12-4. Noise level measurement procedures.

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.
- (3) The general steps listed below shall be followed when preparing to take sound level measurements:
 - a. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
 - b. The sound level meter shall be calibrated before and after each set of measurements.
 - c. When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions.
 - d. The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.
 - e. Measurements shall be taken at a point that is located about one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.
- (4) The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled Connecticut Noise Survey Data Form No. 101.
(Ord. of 6-22-81(5), § 4)

Sec. 12-5. Noise levels.

(a) *Generally.* It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his premises in excess of the noise levels established in this section.

(b) *Noise level standards.*

(1) No person in a residential zone shall emit noise beyond the boundaries of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

TABLE INSET:

	Receptor's Zone			
Emitter's Zone	Industrial	Commercial	Residential/ Day	Residential/Night
Residential	62 dBA	55 dBA	55 dBA	45 dBA

(2) No person in a commercial zone shall emit noise beyond the boundary of his premises exceeding the levels, stated herein and applicable to adjacent residential, commercial or industrial zones:

TABLE INSET:

	Receptor's Zone			
Emitter's Zone	Industrial	Commercial	Residential/ Day	Residential/Night
Commercial	62 dBA	62 dBA	55 dBA	45 dBA

(3) No person in an industrial zone shall emit noise beyond the boundary of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

TABLE INSET:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential/ Day	Residential/Night
Industrial	70 dBA	66 dBA	61 dBA	51 dBA

(c) *High background noise levels and impulse noise.*

(1) In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter.

(2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during the nighttime to any residential noise zone.

(3) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure level at any time to any zone.

(d) *Exclusions.* These levels shall not apply to noise emitted by or related to:

- (1) Natural phenomena;
- (2) Any bell or chime from any building clock, school or church;
- (3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful;
- (4) Warning devices required by OSHA or other state or federal safety regulations;
- (5) Farming equipment or farming activity.

(e) *Exemptions.* The following shall be exempt from these regulations subject to special conditions as spelled out:

(1) Noise generated by any construction equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in subsection (b) of this section;

(2) Noise created as a result of or relating to an emergency;

(3) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours;

(4) Noise from snow removal equipment;

(5) Noise from demolition work conducted during daytime hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation;

(6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration;

(7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town, including, but not limited to, parades, sporting events, concerts and firework displays;

(8) Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities;

(9) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.

(Ord. of 6-22-81(5), § 5)

Sec. 12-6. Prohibited noise activities.

The following activities are prohibited:

(1) *Vehicle horns.* No person shall at any time sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.

(2) *Truck idling.* No person shall operate an engine or any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises or on a town road next to a residential premises.

(3) *Exhaust discharge.* No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge is through a muffler as defined by section 12-2 or through an apparatus providing equal noise reduction.

(Ord. of 6-22-81(5), § 6)

Sec. 12-7. Motor vehicle noise.

(a) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels set forth in the regulations authorized in section 14-80a of the General Statutes.

(b) No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in section 12-5(b).

(Ord. of 6-22-81(5), § 7)

Cross references: Motor vehicles and traffic, Ch. 11.

Sec. 12-8. Recreational vehicle noise.

No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this chapter when the noise so generated exceeds the noise level standards set forth in section 12-5(b).

(Ord. of 6-22-81(5), § 8)

Cross references: Motor vehicles and traffic, Ch. 11.

Sec. 12-9. Inspections.

(a) For the purpose of determining compliance with the provisions of this chapter, the board of selectmen is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. If any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the board of selectmen may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.

(b) It shall be unlawful for any person to refuse to allow or permit the board of selectmen free access to any premises when the board of selectmen is acting in compliance with a warrant for inspection and order issued by the appropriate court.

(c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

(d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his duties under this section.
(Ord. of 6-22-81(5), § 9)

Sec. 12-10. Penalties.

Any person in violation of any of the provisions of this chapter shall be deemed guilty of a violation and upon conviction thereof shall be fined in an amount not to exceed twenty-five dollars (\$25.00). Each day such violation continues after the time for correction of the violation has been given in an order shall constitute a continuing violation and the amount of the fine shall be doubled for each day the violation continues, such fine not to exceed four hundred dollars (\$400.00) per day.
(Ord. of 6-22-81(5), § 10)

Sec. 12-11. Variance and contracts.

(a) *Variances.*

(1) Any person living or doing business in the town may apply to the board of selectmen for a variance from one (1) or more of the provisions of this chapter, which are more stringent than the state department of environmental protection regulation for the control of noise, provided that the applicant supplies all of the following information to the board of selectmen at least twenty (20) days prior to the start of the activity:

- a. The location and nature of the activity;
- b. The time period and hours of operation of the activity;
- c. The nature and intensity of the noise that will be generated;
- d. Any other information required by the board of selectmen.

(2) No variance from this chapter shall be issued unless it has been demonstrated that:

- a. The proposed activity will not violate any provisions of the state department of environmental protection regulations.
- b. The noise levels generated by the proposed activity will not constitute a danger to the public health.

c. Compliance with the regulations constitutes an unreasonable hardship on the applicant.

(3) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of the activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

(4) Failure to rule on the application in the designated time shall constitute approval of the variance.

(b) *Contracts.* Any written agreement, purchase order or contract whereby the town is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without violating the provisions of this chapter.

(Ord. of 6-22-81(5), § 11)

Sec. 12-12. Effect of zoning regulations.

All provisions of the zoning regulations of the town which are more stringent than those set forth in this chapter shall remain in force.

(Ord. of 6-22-81(5), § 12)

Chapter 68

NOISE

GENERAL REFERENCES

Alarm systems — See Ch. 11A.

Nuisances — See Ch. 71.

Explosives — See Ch. 38.

Excavating and filling of land — See Ch. 97.

Fire-alarm systems: institutions — See Ch. 40. Zoning — See Ch. 118.

§ 68-1. Short title.

This chapter shall be known as the "City of Norwalk Noise Control Ordinance."

§ 68-2. Purpose.

It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Norwalk through the reduction, control and prevention of noise.

§ 68-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

AMBIENT NOISE or BACKGROUND NOISE — Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

COMMERCIAL ZONE — All commercial districts, business districts, as defined in the Zoning Regulations of the City of Norwalk,¹ and all uses associated therewith, either permitted as a right or as a special use.

COMMON COUNCIL — The Common Council of the City of Norwalk.

CONSTRUCTION — Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

CONSTRUCTION EQUIPMENT — Any equipment or device operated by fuel pneumatically or electric power used in construction or demolition work.

CONSTRUCTION SITE — Site where construction or demolition takes place.

1. Editor's Note: See Ch. 118, Zoning.

DAYTIME HOURS — The hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, the hours between 8:00 a.m. and 8:00 p.m. on Saturday and the hours 9:00 a.m. through 8:00 p.m. on Sundays and federal and state holidays.

DECIBEL — A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB. SPL (sound pressure level) is defined as:

$$\text{SPL} = 20 \log \frac{P}{P_o} \quad \text{in dB}$$

Where

$$P_o = 0.0002 \text{ microbar}$$

DEMOLITION — Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

DIRECTOR OF HEALTH — The Health Director of the City of Norwalk.

DOMESTIC POWER EQUIPMENT — Not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a home owner.

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY VEHICLE — Any motor vehicle authorized by the City of Norwalk to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

EMERGENCY WORK — Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

HEALTH BOARD — As defined in Chapter 57 in the City Code.

IMPULSE NOISE — Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

INDUSTRIAL ZONE — All industrial districts as defined by the Zoning Regulations of the City of Norwalk.

MOTOR VEHICLE — Per Section 14-1(26) of the Connecticut General Statutes, as amended.

MUFFLER — A device for abating sounds, such as those produced by escaping gases.

NIGHTTIME HOURS — The hours between 8:00 p.m. and 7:00 a.m., Sunday evening through Friday morning, Friday evening 8:00 p.m. through 8:00 a.m. Saturday morning and Saturday evening 8:00 p.m. through 9:00 a.m. Sunday morning. Saturday nighttime hours apply to state and federal holidays.

NOISE — Any sound, the intensity of which exceeds the standards set forth in § 68-5B or C of this chapter.

NOISE DISTURBANCE — Any sound which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person, or which causes injury or damage to property or business.

NOISE LEVEL — The sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The level so read is designed "dB(A)" or "dBA."

NOISE SENSITIVE ZONE — Any area designated by the Norwalk Board of Health as a "noise-sensitive zone" where noise problems are likely to occur or known to exist. As a minimum requirement, said zone must include within its boundaries a school, hospital, house of worship, day-care center, nursing home, public library, senior citizen center, residence or court.

PERSON — Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

PREMISES — Any buildings, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

PROPERTY LINE — That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

PUBLIC RIGHT-OF-WAY — Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

RECREATIONAL VEHICLE — Any internal combustion-engine powered vehicle which is being used for recreational purposes.

RESIDENTIAL ZONE — All city-owned property used for recreational or educational purposes and all residential districts and any commercial district when used for residential purposes, as defined in the Zoning Regulations of the City of Norwalk, and all uses permitted therewith either as a right or as a special use.

SOUND — A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

SOUND LEVEL METER — An instrument used to take sound level measurements and which should conform, as a minimum, to the operational

specifications of the American National Standards Institute for Sound Level Meters S1.4-1971 (Type S2A).

SOUND PRESSURE LEVEL — Twenty times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

§ 68-4. Noise level measurement procedures.

For the purpose of determining noise level as set forth in this chapter, the following guidelines shall be applicable:

- A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- B. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.
- C. The general steps listed below shall be followed when preparing to take sound level measurements:
 - (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
 - (2) The sound level meter shall be calibrated before and after each set of measurements.
 - (3) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions.
 - (4) The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.
 - (5) Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or ground of contiguous parcels under the same ownership as indicated by public land records.
- D. Multiple uses. Where multiple uses exist within a given noise zone, the least restrictive land use category for the emitter and receptor shall apply regarding the noise standards.

§ 68-5. Noise levels.

- A. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this chapter.

B. Noise level standards.

- (1) No person in a residential zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential	
			(day)	(night)
Resi- dential	62 dBAs	55 dBAs	55 dBAs	45 dBAs

- (2) No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential	
			(day)	(night)
Com- mercial	62 dBAs	62 dBAs	55 dBAs	45 dBAs

- (3) No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential	
			(day)	(night)
Industrial	70 dBAs	66 dBAs	61 dBAs	51 dBAs

C. High background noise levels and impulse noise.

- (1) In those individual cases where the background noise levels caused by sources not subject to this chapter exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five dBA's, provided that no source subject to the provisions of this chapter shall emit noise in excess of 80 dBA's at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter.

- (2) No person shall cause or allow the emission of impulse noise in excess of 80 dB's peak sound pressure level during the nighttime to any residential noise zone.
 - (3) No person shall cause or allow the emission of impulse noise in excess of 100 dB's peak sound pressure level at any time to any zone.
- D. Exclusions. These levels shall not apply to noise emitted by or related to:
- (1) Natural phenomena.
 - (2) Any bell or chime from any building clock, school or church.
 - (3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation.
 - (4) Warning devices required by OSHA or other state or federal safety regulations.
 - (5) Farming equipment or farming activity.
- E. Exemptions. The following shall be exempt from this chapter these regulations subject to special conditions as spelled out and to the general prohibition of § 68-6:
- (1) Noise generated by any construction equipment which is operated during daytime hours.
 - (2) Noise created as a result of, or relating to, an emergency.
 - (3) Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises that result therefrom.
 - (4) Noise from snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
 - (5) Noise from demolition work conducted during daytime hours.
 - (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
 - (7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City, including, but not limited to, parades, sporting events, concerts and firework displays.

- (8) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.
- (9) Noise created by the normal and ordinary activities of the Department of Public Works or any taxing district utility, including but not limited to the following: street sweeping, snow and ice control, maintenance of the sanitary sewer collection system, maintenance of storm drainage systems, solid waste collection and disposal, maintenance of traffic control devices and operation of off-street parking facilities.
- (10) Noise created by public school construction.

§ 68-6. Prohibited activities.

- A. General prohibition. It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary and unreasonable noise.
- B. The following activities are prohibited:
 - (1) Vehicle horns. No person shall at any time sound any horn or audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.
 - (2) Emissions from stationary or idling mobile sources. No mobile source engine shall be allowed to operate for more than three consecutive minutes when the mobile source is not in motion except as follows:
 - (a) When a mobile source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
 - (b) When it is necessary to operate heating, cooling or auxiliary equipment installed on the mobile source when such equipment is necessary to accomplish the intended use of the mobile source;
 - (c) To bring the mobile source to the manufacturer's recommended operating temperature;
 - (d) When the outdoor temperature is below 20°F;
 - (e) When the mobile source is being repaired.
 - (3) Exhaust discharge. No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge is through a muffler as defined by § 68-3 of this chapter or through an apparatus providing equal noise reduction and that meet noise level requirements identified in § 68-5B.

- (4) Construction. No person shall at any time operate construction equipment on the construction or demolition site or carry on any construction or demolition during nighttime hours, except in an emergency in the interest of public safety and then only with a permit from the Director of Health or his designee and subject to all other applicable rules and regulations provided by state and local law, and said permit may not exceed a period of three days.
- (5) Blasting. No person shall at any time carry on blasting between the hours of 5:00 p.m. and 8:00 a.m. except in an emergency in the interest of public safety and then only with a permit from the Director of Health or his designee and subject to all other applicable rules and regulations provided by state and local law and the permit may not exceed a period of three days.
- (6) Leaf blowers. No person shall at any time operate a leaf blower during nighttime hours in a residential zone.
- (7) Nighttime. In-house construction. No person shall carry on nighttime in-house construction unless that construction activity takes place solely within the structure and emits no sound or noise outside of the structure.

§ 68-7. Motor vehicles.

- A. All motor vehicles operated within the limits of the City of Norwalk shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Sections 14-80a-1a through 14-80a-10a, inclusive, of the Regulations of Connecticut State Agencies.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 68-5B or C.
- C. This section dealing with motor vehicle noise shall be enforced by the Chief of Police and/or his designated subordinates.

§ 68-8. Recreational vehicles; loudspeakers; sound reproduction systems.

- A. No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this chapter when the noise so generated exceeds the noise level standards set forth in § 68-5B or C.
- B. The Norwalk Board of Health may designate noise-sensitive zones where noise problems are particularly likely to occur and likely to cause unusual problems. Loudspeakers and public address systems may be prohibited in such noise-sensitive zones by the Norwalk Board of Health.

- C. Operating, playing or permitting the operation or playing of any radio, television, phonograph or similar device which reproduces or amplifies sounds in such a manner as to create a noise disturbance is prohibited.

§ 68-9. Inspections.

- A. For the purpose of determining compliance with the provisions of this chapter, the Chief of Police or his designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the Chief of Police and/or designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.
- B. It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative free access to any premises when the Chief of Police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- C. It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.
- D. No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this chapter.

§ 68-10. Violations and penalties.

- A. Any person who violates any provision of this chapter or any rule or regulation in force pursuant thereto shall be subject to a fine of no more than \$99, and \$250 for each subsequent offense within one year of the last offense. Each violation shall constitute a separate offense. **[Amended 3-28-2017]**
- B. Action pursuant to Subsection A of this section shall not be a bar to enforcement of this chapter, rules and regulations in force pursuant thereto and orders made pursuant to this chapter, by injunction or other appropriate remedy, and the Department of Health shall have the power to institute and maintain in the name of the City of Norwalk any and all such enforcement proceedings.
- C. Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account

of injuries to persons or property, and to maintain any action or other appropriate proceeding therefor.

§ 68-11. Variances; promulgation of regulations; contracts.

A. Variances.

- (1) Any person living or doing business in Norwalk may apply to the Director of Health for a variance from one or more of the provisions of the chapter, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplies all of the following information to the Director of Health:
 - (a) Location and nature of activity.
 - (b) The time period and hours of operation of said activity.
 - (c) The nature and intensity of the noise that will be generated.
 - (d) Any other information required by the Director of Health.
- (2) No variance from these regulations shall be issued unless it has been demonstrated that:
 - (a) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
 - (b) The noise levels generated by the proposed activity will not constitute a danger to the public health.
 - (c) Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- (3) Following receipt and review of an application for a variance, the Director of Health shall fix a date, time and location for a hearing on such application.
- (4) The Director of Health shall cause the applicant to publish at his/her own expense all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record and property owners within 200 feet.
- (5) Within 65 days of the receipt of the record of the hearings on a variance application, the Director of Health shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.
- (6) The Director of Health may, at his/her discretion, limit the duration of any variance granted under this chapter. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of this chapter. Any such application

shall include a certification of compliance with any condition imposed under the proposed variance.

- (7) The Director of Health may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:
 - (a) Requirements for the best practical noise control measures to be taken by the owner or operator of the source to minimize noise during the period of the variance.
 - (b) Requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Director of Health deems necessary.
 - (8) The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Director of Health upon application of any party if the Director of Health finds that protection of the public health so requires.
 - (9) In any case where a person seeking a variance contends that compliance with any provision of these regulations is not practical or possible because of the cost involved either in installing noise control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Director of Health such financial records as the Director of Health may require.
 - (10) A variance may include a compliance schedule and requirements for periodic reporting on increments of achievement of compliance.
 - (11) Failure to rule on the application in the designated time shall constitute approval of the variance.
- B. Any person aggrieved by the decision of the Director of Health with respect to any variance may appeal to the Common Council within a period of 10 days of the reception of the Health Director's decision.
 - C. The Director of Health is herewith authorized to recommend regulations from time to time not inconsistent with the State Public Health Code and/or the regulations of the State Department of Environmental Protection regarding noise which shall, upon approval by the Common Council and State of Connecticut Department of Environmental Protection, become effective therewith.
 - D. Contracts. Any written agreement, purchase order or contract whereby the City of Norwalk is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials, or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will

be operated, constructed, conducted or manufactured without violating the provisions of the chapter.

§ 68-12. Severability.

If any clause, sentence, paragraph or part of this chapter, or the application thereof to any person, firm, corporation or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons, firms, corporation or circumstances, but shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of this body that this chapter would have been adopted had such invalid provisions not been included.

§ 68-13. Conflict with other regulations.

In the event that provisions or standards of this chapter or adopted under this chapter shall conflict with regulations or standards set by the State of Connecticut Department of Environmental Protection, the more strict standard shall apply.

§ 68-14. Word usage.

In construing this chapter, masculine or neuter pronouns shall be substituted for those of feminine form and vice versa, and the plural of the singular and the singular of the plural, shall be substituted in any case which the context may require.

§ 68-15. When effective.

This chapter shall be effective 10 days from its passage.

ARTICLE III. NOISE

Sec. 8-46. Short title.

The title of this article shall be "The Town of Seymour Noise Control Ordinance."
(Ord. of 6-27-83, § 1)

Sec. 8-47. Purpose.

It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This article is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of the town through the reduction, control and prevention of noise.

(Ord. of 6-27-83, § 2)

Sec. 8-48. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.

Ambient noise or *background noise* shall mean noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

Commercial zone shall mean commercial district, as defined in the zoning regulations of the town and all uses associated therewith either permitted as a right or as a special use. Central commercial: CBD-1 central business district; general commercial C-2; recreational commercial RC-3.

Construction shall mean any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition of public or private rights-of-way, structures, utilities, or similar property.

Construction equipment shall mean any equipment or device operated by fuel or electric power used in construction or demolition.

Daytime hours shall mean the hours between 7:00 a.m. and 9:00 p.m. Monday through Sunday, and the hours between 7:00 a.m. through 9:00 p.m. on holidays which fall into these parameters.

Decibel shall mean a logarithmic unit of measure used in measuring magnitudes of sound which symbol is dB.

Demolition shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Domestic power equipment shall mean, but not be limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency vehicle shall mean any motor vehicle authorized by the state to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

Emergency work shall mean work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

Impulse noise shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

Industrial zone shall mean industrial district as defined by the zoning regulations of the town, limited and general: Limited industrial LI-1; general industrial GI-2.

Motor vehicle shall be defined as per section 14-1(26) of the general statutes.

Muffler shall mean a device for abating sounds such as escaping gases.

Nighttime hours shall mean the hours between 9:00 p.m. and 7:00 a.m. Monday through Sunday, except that night shall mean the hours between 9:00 p.m. Saturday and 9:00 a.m. Sunday.

Noise shall mean any sound, the intensity of which exceeds the standards set forth in section 8-52.

Noise level shall mean the sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Premises shall mean any building, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

Property line shall mean that real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property from the public right-of-way.

Public right-of-way shall mean any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

Recreational vehicle shall mean any internal-combustion engine powered vehicle which is being used for recreational purposes.

Residential zone shall mean residential district as defined in zoning regulations of the town. Residence R-40 residential, 40,000 square feet; residence R-15 residential 15,000 square feet; residence TH-townhouses; residence GA-garden apartment. The boundaries are established in the zoning regulations of the town as shown on the zoning map.

Sound shall mean a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to, an auditory response when impinging on the ear.

Sound level meter shall mean an instrument used to take sound level measurements and which should conform, as a minimum to the operational specifications of the American National Standards Institute for sound level meters St. 4-1971 (Type S2A).

Sound pressure level shall mean 20 times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

(Ord. of 6-27-83, §§ 3.1-3.27)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 8-49. Noise level measurement procedures:

For the purpose of determining noise levels as set forth in this article, the following guidelines shall be applicable:

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation;
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this article.

(Ord. of 6-27-83, § 4.2)

Sec. 8-50. Sound level measurements.

The general steps listed below shall be followed when preparing to take sound level measurements:

- (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
 - (2) The sound level meter shall be calibrated before and after each set of measurements and shall be approved by the department of environmental protection;
 - (3) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions;
 - (4) The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements;
 - (5) Measurements shall be taken at a point that is located at least one foot beyond the boundary of the emitter's premises within the receptor's noise zone. The emitter's premises includes his individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.
- (Ord. of 6-27-83, § 4.3)

Sec. 8-51. Noise levels--Generally.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his premises in excess of the noise levels established in this article.

Sec. 8-52. Same--Standards.

- (a) No person and/or property owner in a residential zone shall emit noise beyond the boundaries of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

TABLE INSET:

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential/Day	Residential/Night
Residential	62 dBA	55 dBA	55 dBA	45 dBA

- (b) No person and/or property owner in a commercial zone shall emit noise beyond the boundary of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zone:

TABLE INSET:

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential/Day	Residential/Night
Commercial				
62 dBA	62 dBA	55 dBA	45 dBA	

(c) No person and/or property owner in an industrial zone shall emit noise beyond the boundary of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones.

TABLE INSET:

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential/Day	Residential/Night
Industrial				
70 dBA	66 dBA	61 dBA	51 dBA	

(Ord. of 6-27-83, § 5.2)

Sec. 8-53. High background noise levels and impulse noise.

(a) In those individual cases where the background noise levels caused by sources not subject to this article, exceed the standards contained in section 8-52, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five dBA, provided that no source subject to the provisions of this article shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels of other sections of this article.

(b) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime to any residential noise zone.

(c) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time to any zone.

(Ord. of 6-27-83, § 5.3)

Sec. 8-54. Exclusions.

The levels enumerated in sections 8-52 and 8-53 shall not apply to noise emitted by or related to:

- (1) Natural phenomena;
- (2) Any bell or chime from any building clock, school or church;
- (3) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situations, provided, however, that burglar alarms not terminating within 30 minutes after being activated shall be unlawful;
- (4) Warning devices required by OSHA or other state or federal safety regulations;
- (5) Farming equipment or farming activity.

(Ord. of 6-27-83, § 5.4)

Sec. 8-55. Exemptions.

The following shall be exempt from the provisions of this article, subject to special conditions as spelled out:

- (1) Noise generated by any construction equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in section 8-52;
- (2) Noise created as a result of or relating to an emergency;

- (3) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinder, lawn and garden tools or similar devices operated during daytime hours with proper muffler equipment;
 - (4) Noise from snow-removal equipment with proper muffler equipment;
 - (5) Noise from demolition work conducted during daytime hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this article;
 - (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration;
 - (7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town, including, but not limited to parades, sporting events, concerts, and firework displays; limiting time to be included on permit;
 - (8) Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time, at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities;
 - (9) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.
- (Ord. of 6-27-83, § 5.5)

Sec. 8-56. Prohibited noise activities.

The following activities are prohibited:

- (1) *Vehicle horns.* No person shall, at any time, sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.
 - (2) *Truck idling.* No person shall operate an engine or any standing motor vehicle with a weight in excess of 10,000 pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten minutes when such vehicle is parked on a residential premise or on a town road next to a residential premise.
 - (3) *Exhaust discharge.* No person shall discharge into the ambient air the blowdown of any steam vent of the exhaust of any stationary internal-combustion engine or air compressor equipment unless such discharge be through a muffler, as defined by section 8-48 or through an apparatus providing equal noise reduction.
- (Ord. of 6-27-83, § 6.3)

Sec. 8-57. Motor vehicle noise.

- (a) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels set forth in the regulations authorized in section 14-80a of the general statutes.
 - (b) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in section 8-52.
- (Ord. of 6-27-83, § 7.2)

Cross references: Traffic and motor vehicles, Ch. 16.

Sec. 8-58. Recreational vehicle noise.

No person shall create or cause to create any unreasonable loud or disturbing noise due to the operation of the recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article when the noise so generated exceeds the noise level standards set forth in section 8-52.

(Ord. of 6-27-83, § 8.1)

Sec. 8-59. Inspections.

(a) For the purposes of determining compliance with the provisions of this article, the Chief of Police or his authorized agent, is hereby authorized to make inspections of all noise sources and take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or [or] restricts entry and free access to any part of a premises or refuses inspection, testing, or noise measurements of any activity, or process where inspection is sought, the Chief of Police or his authorized agent, through the town, may seek from the appropriate court a warrant or other appropriate order for the purpose of inspecting, testing or measuring noise.

(b) It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his authorized agent, free access to any premises when the Chief of Police or his authorized agent, is acting in compliance with a warrant or other order for inspection.

(c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

(d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his duties under this article.

(Ord. of 6-27-83, §§ 9.1–9.5; Ord. approved 1-20-09(2), eff. 1-27-09)

Sec. 8-60. Contracts.

Any written agreement, purchase order or contract whereby the town is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this article will be operated, constructed, conducted or manufactures without violating the provisions of this article.

(Ord. of 6-27-83, § 11.1)

Sec. 8-61. Penalties.

(a) The Chief of Police or his authorized agent, whenever he finds, after investigation, that any person is causing, engaging in or maintaining any condition or activity which, in his judgement, constitutes a violation of these regulations may, without hearing, issue a written warning to such person to discontinue, abate or alleviate such condition or activity. Such person or persons issued a written warning may appeal within ten days. The appeal shall be made in compliance with the town ordinance of March 2, 2004, which establishes a hearing procedure. Any subsequent fine or penalty imposed by this ordinance may be appealed in a manner provided by said appeal ordinance. If such person or persons continue after receiving a written warning, section (b) of this penalty section will be implemented.

(b) Any person in violation of any of the provisions of this article shall be fined in the amount of \$100.00. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be doubled for each day the violation continues, such fine shall not exceed \$400.00 per day.

(Ord. of 6-27-83, §§ 10.1, 10.2; Ord. approved 1-20-09(2), eff. 1-27-09)

Town of East Lyme Noise Control Ordinance

TITLE: The title of the ordinance shall be the "Town of East Lyme Noise Control Ordinance."

PURPOSE: Pursuant to the general authority of Connecticut General Statutes 7-148 and the specific authority of Connecticut General Statute 22a-73(c) it is hereby resolved that to preserve and promote the health, safety and general welfare of the citizens of the Town of East Lyme (the "Town"), it is in the common interest to enact a reasonable regulation pertaining to the reduction, control and/or prevention of noise as to promote a general environment free from excessive noise and vibration.

This ordinance is enacted to preserve, protect and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of East Lyme, and to facilitate the enjoyment of natural resources and tranquility of the town, through the reduction, control and prevention of excessive noise and vibration.

DEFINITIONS: The following definitions shall apply in the interpretation and enforcement of this chapter.

AMBIENT NOISE OR BACKGROUND NOISE - Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

BOARD OF SELECTMEN - The Board of Selectmen of the Town of East Lyme or a duly authorized officer.

COMMERCIAL ZONE - As set forth in the East Lyme Zoning Regulations and all associated therewith either permitted as a right or as a special use.

CONSTRUCTION - Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar properties, but excluding demolition.

CONSTRUCTION EQUIPMENT - Any equipment or device operated by any fuel or electric power used in construction or demolition work.

DAYTIME HOURS - The hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sundays.

DECIBEL - A logarithmic unit of measure in measuring magnitudes or sound. The symbol of dB.

DEMOLITION - any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar properties.

DOMESTIC POWER EQUIPMENT - Including but not limited to power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

EMERGENCY - Any occurrence or set of circumstances involving actual or perceived imminent physical trauma or property damage which demands immediate action.

EMERGENCY VEHICLE - Any motor vehicle authorized by the State of Connecticut to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency. (14-283)

EMERGENCY WORK - Work made necessary to restore property to a safe condition following an emergency or work required to protect persons or property from exposure of imminent danger.

IMPULSE NOISE - Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

INDUSTRIAL ZONE - As set forth in the East Lyme Zoning Regulations and all uses associated therewith, either permitted as a right or as a special use.

MOTOR VEHICLE - Per Section 14-1 of the Connecticut General Statutes.

MUFFLER - A device for abating sounds such as escaping gases.

NIGHTTIME HOURS - The hours between 10:00 p.m. and 7 a.m., Sunday evening through Saturday morning, except that "night" shall mean the hours between 10 p.m. Saturday and 9:00 a.m. Sunday.

NOISE - Any sound, the intensity of which exceeds the standards set forth on Page 3.

NOISE LEVEL - The sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated db(A) or dBA.

PERSON - Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

PREMISES - Any building structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without building or improvements owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-or-way, all road right-or-ways and waters of the state.

PROPERTY LINE - That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from

contiguous real property owned or controlled by another person and separates real property from the public right-of-way.

PUBLIC RIGHT-OF-WAY - Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

RESIDENTIAL ZONE - Those residential districts as defined and set forth in the East Lyme Zoning Regulations and all uses associated therewith either permitted as a right or as a special use.

SOUND - A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations including but not limited to an auditory response when impinging on the ear.

SOUND LEVEL METER - An instrument used to take sound-level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4 - 1971. (Type S2A)

SOUND PRESSURE LEVEL - Twenty (20) times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of twenty (20) microneutons per square meter and is expressed in decibels (dB).

A. **Noise Levels:** It shall be unlawful for any person or cause to be emitted any noise beyond the boundaries of his/her premises.

Property Use Emitter	Property Use Receptor			
	Residential Zone		Non-residential Zone	
	Day	Night	Day	Night
Residential Zone Emitter	55 dBA	45 dBA	52dBA	45dBA
Non-residential Zone Emitter	55 dBA	45 dBA	52dBA	45dBA

Measurements shall be taken at a point on the property line of the emitter closest to the receptor and/or at the property line at any neighboring property (that may or may not be contiguous) with a more restrictive decibel allowance. In cases where the emitter is located on jointly owned property, such as industrial parks and condominiums, the noise measuring equipment (i.e. microphone) shall be placed at a fifty foot (50') distance from the noise source. The microphone shall be placed no closer than five feet from any wall and not less than three feet above ground that is located about one foot (1') beyond the boundary of the emitter's premises within the

receptors premises. The emitter's premises include his/her individual unit of land or group of contiguous parcels under same ownership as indicted by public land records.

1. **Impulse Noise:** In these individual cases where the background noise level caused by sources not subject to these regulations exceed the standard contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time and provided that this section does not decrease the permissible levels of other provisions of this ordinance.
2. No person shall cause or allow the emission of impulse noise in excess of eighty (80) dBA peak sound pressure level during the night time to any residential noise zone.
3. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dBA peak sound pressure level at any time to any zone.

B. Exclusions: These levels shall not apply to noise emitted by or related to:

1. Natural phenomena
2. Any bell or chime from any building clock, school or church.
3. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation; provided however, that burglar alarms not terminating in thirty minutes after being activated shall be unlawful.
4. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
5. Farming equipment or farming activity.
6. Train horns and signals.

C. Exemptions: The following shall be exempt from these regulations subject to special conditions as spelled out:

1. Noise generated by any construction equipment which is operated during daytime hours. Noise generated by construction equipment during nighttime hours shall not exceed the maximum noise levels as specified on Page 3 Sec. A.
2. Noise created as a result of or relating to an emergency.
3. Noise from domestic power equipment such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
4. Noise from snow removal equipment.
5. Noise from demolition work conducted during daytime hours. When considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.
6. Noise created by any aircraft flight operations which are specifically permitted by the Federal Aviation Administration.
7. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town or State of Connecticut, including but not limited to parades, sporting events, concerts and firework displays.

8. Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public or provided that a permit for such blasting is obtained from local authorities.
9. Noise generated by the police and other established shooting facilities as permitted by Connecticut Firearms laws Sec. 22a-74a.

REFUSE COLLECTION NOISE

All refuse collectors shall comply with the noise level standards as established in this article while engaging in refuse collection at each location. For purposes of this article, the term "refuse collectors" shall be synonymous with private haulers, and all other persons that commercially engage in the collection and transportation of refuse and other debris.

MOTOR VEHICLE NOISE:

- A. All motor vehicles as defined in Section 14-1 of Chapter 246 of the Connecticut General Statutes, operated within the limits of the Town of East Lyme shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in the Noise Levels section (Page 3 Sec. A).
- C. Recreational motorized vehicles operating off public rights-of-way.
 1. No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in section A, Noise Levels.
 2. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, ATV's, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats or aircraft.

INSPECTIONS

- A. For the purpose of determining compliance with the provisions of this chapter, the Board of Selectmen or their designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the Board of Selectmen or their designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.
- B. It shall be unlawful for any person to refuse to allow or permit the Board of Selectmen or their designated representative free access to any premises when the Board of Selectmen or their designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- C. It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

- D. No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this chapter.**

ENFORCEMENT AND PENALTIES FOR OFFENSES

- A. The East Lyme Police Department shall be responsible for investigating and documenting, through acoustic measurements, violations of this ordinance. Violators may be served with an ordinance citation, which shall be known as a "Noise Ticket". Payment of the fine prescribed by such Noise Ticket within the time specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Fines shall be in the amount of \$99.00 for each day that the violation continues until the noise is abated. Nothing in this ordinance shall prevent the Police Department, because of the perceived nature of the offense, from proceeding not under the terms of this ordinance, but under the provisions of Connecticut General Statutes §53a-181 and §53a-182, as they may be amended from time to time, which sections relate, generally, to breach of peace, etc.

An appeal process relative to noise tickets is established below. The First Selectman shall appoint a hearing officer who shall serve at his/her discretion to hear appeals from the issuance of noise tickets. A Person shall have thirty (30) days from the date of the Noise Ticket to deliver a written application for a hearing. The Hearing Officer shall hold a hearing within five days of the receipt of the application, and his/her decision shall be final.

- B. In those individual cases where the background noise levels caused by sources not subject to this ordinance exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of Section A, Noise Levels, shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels of the other sections of this ordinance.

VARIANCES

- A. Any person living or doing business in East Lyme may apply to the Town's Board of Selectman for a variance from one (1) or more of the provisions of the ordinance which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplied all of the following information to the Board of Selectmen at least twenty (20) days prior to the start of said activity.
1. The location and nature of the activity.
 2. The time period and hours of operation of said activity.
 3. The nature and intensity of the noise that will be generated.
 4. Any other information required by the Board of Selectmen.
- B. No variance from these regulations shall be allowed unless it has been demonstrated that:
1. The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.

2. The noise levels generated by the proposed activity will not constitute a danger to the public health.
 3. Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- C. The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.
- D. Failure to rule on the application in the designated time shall constitute approval of the variance.

* See Appendix for sample Application for Variance

All provisions of the East Lyme Zoning Regulations, which are more stringent than those set forth herein, shall remain in force. If, for any reason, any word, clause, paragraph or section of this ordinance shall be held to make the same unconstitutional, this ordinance shall not hereby be invalidated and the remainder of this ordinance shall continue in effect. Any provision herein, which is in conflict with the Connecticut General Statutes or the Public Health Code of the State of Connecticut, is hereby repealed, it being understood that said Statutes and Regulations shall take precedence over this chapter.

Dated at East Lyme this _____, in accordance with Section _____ of East Lyme Town Charter. This ordinance shall become effective _____.

**TOWN OF EAST LYME
APPLICATION FOR VARIANCE
From
NOISE ORDINANCE**

APPLICANT

Name: _____

Address: _____

Telephone: _____ Email: _____

PROPOSED EVENT/ACTIVITY

Name of Event: _____

Date: _____ Times: _____ Estimated Attend: _____

Location: _____

Nature of Event/Activity; will live, amplified or recorded music be played? (State in detail):

Have adjoining property owners been notified 15 days in advance of event? _____
(Attach copy of notification)

Will alcoholic beverages be sold or served? Please explain: _____

Applicant solemnly swears and affirms that all information given on this application is true and correct to the best of his/her knowledge and belief. Applicant further acknowledges and agrees that approval of the Variance does not prohibit police officers from responding to and acting on any complaints, including violations of approved noise variances.

I have read and understand the Variance approved by the Selectman and agree to comply with all terms, conditions and restrictions imposed herein; I understand that this Variance will automatically terminate if I or those attending the approved event fail to abide by the conditions of the aforesaid variance and that a violation may subject any and all persons in attendance to the provisions of the Noise Control Ordinance.

Applicant

**TOWN OF EAST LYME
APPLICATION FOR VARIANCE
From
NOISE ORDINANCE**

(This Page for Town Official Use)

Application reviewed/investigated by: _____

Recommended terms, conditions, restrictions, if any, on activity and variance:

RECOMMENDATION TO SELECTMAN

The Police Department for the Town of East Lyme hereby recommends that this application for variance from the Noise Control Ordinance by _____ be:
(Name of Event)

APPROVED

DISAPPROVED

Subject to the terms, conditions and/or restrictions set forth above.

Police Department

**ADDITIONAL TERMS, CONDITIONS, AND/OR RESTRICTIONS IMPOSED BY
SELECTMAN:**

Final Action by Selectman:

APPROVED

DISAPPROVED

Date: _____ Signed: _____

ARTICLE IV. NOISE**Sec. 38-101. Declaration of policy**

Excessive noise must be controlled by the town to protect, preserve and promote the public health, safety and welfare. The town council recognizes the fact that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety or welfare.
(Ord. No. 01-5, § 6A-1, 5-7-2001)

Sec. 38-102. Definitions.

As used in this article, the following words and terms shall have the meanings hereinafter set forth:

Background noise means noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90 percent of the time (L 90) in which the measurement is taken.

Business zone means those areas so designated under the zoning regulations of the town.

Chief of police means the duly appointed chief of police of the town or his designee.

Construction means the assembly, erection, substantial repair, alteration, demolition, or site-preparation for or of public or private rights-of-way, buildings or other structures, utilities or property.

Day-time hours means the hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 9:00 p.m. on Sunday.

Decibel means a unit of measurement of the sound level, the symbol for which is dB.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Excessive noise means any sound, the intensity of which exceeds the standards set forth in section 38-106.

Impulse noise means sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

Industrial zone means those areas so designated under the zoning regulations of the town in appendix B.

Intrusion alarm means a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

L 90 means the A-weighted sound pressure level exceeded 90 percent of the time period during which measurement was made.

Motor vehicle means a vehicle as defined in G.S. § 14-1(47).

Nighttime hours means the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and between 9:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Noise level means a frequency weighted sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dBA.

Person means any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state, or other legal entity of any kind.

Premises means any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

Property maintenance equipment means all engine or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers.

Public emergency sound signal means a device either stationary or mobile, producing audible signal associated with a set of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action.

Public facility maintenance means all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

Recreational vehicle means any internal combustion engine powered vehicle which is being used for recreational purposes.

Residential zone means those areas so designated under the zoning regulations of the town.

Sound means a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

Sound level meter means an instrument used to measure sound pressure levels. A sound level meter shall conform, as a minimum, to the American National Standards Institute's operational specifications for sound level meters ANSI S1.4-1983 (R 1997) (Type 1).

Sound pressure level means 20 times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of 20 micropascals, expressed in decibels (dB) units.

Town manager means the duly appointed town manager of the town or his designee.
(Ord. No. 01-5, § 6A-2, 5-7-2001)

Sec. 38-103. Exclusions.

This article shall not apply to noise emitted by or related to:

- (1) Natural phenomena.
 - (2) The unamplified sound made by any wild animal.
 - (3) A bell or chime from any building clock, school or church.
 - (4) A public emergency sound signal.
 - (5) Warning devices required by OSHA or other state or federal safety regulations.
 - (6) Farming equipment or farming activity.
 - (7) An emergency.
 - (8) Snow removal.
- (Ord. No. 01-5, § 6A-3, 5-7-2001)

Sec. 38-104. Exemptions.

The following shall be exempt from this article subject to the special conditions noted:

- (1) Noise created by the operation of properly maintained and properly functioning property maintenance equipment during day-time hours.
- (2) Noise generated by any construction equipment operated during day-time hours.
- (3) Noise created by any recreational activities which are sanctioned by the town, including, but not limited to, parades, sporting events, concerts and firework displays. Any equipment related to such recreational activities shall be properly maintained and properly functioning.
- (4) Noise created by blasting provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from state or local authorities.
- (5) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.

(6) Noise created by a properly maintained and properly functioning fire or intrusion alarm which, from time of activation of the audible signal, emits noise for a period of time not exceeding ten minutes when such alarm is attached to a vehicle or 30 minutes when attached to any building or structure.

(7) Noise created by public facility maintenance during day-time hours.

(Ord. No. 01-5, § 6A-4, 5-7-2001)

Sec. 38-105. Noise level measurement procedures

For the purpose of determining noise levels as set forth in this article, and as set forth in Connecticut Regulations G.S. § 22a-69-4, the following procedures shall be applicable:

(1) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.

(2) Instruments used to determine sound level measurements shall be sound level meters as defined in this article.

(3) The following steps shall be taken when preparing to take sound level measurements:

a. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.

b. Measurements to determine compliance with section 38-106, in those cases where a receptor is an abutter to the emitter, shall be taken at a point that is located more or less one foot beyond the boundary of the emitter's premises and at a point within the receptor's premise. In those cases where the receptor is not an abutter to the emitter, measurements to determine compliance with section 38-106 shall be taken at a point that is located more or less one foot within the boundary of the receptor's premises.

c. The person conducting the testing shall prepare a written report to include, but not necessarily be limited to, such information as date, time, location, observation of conditions of the environment such as identification of noise source, weather, traffic and other pertinent data.

(4) The zoning enforcement officer is charged with assisting in training efforts and with assisting emitters in their efforts to comply with the standards set forth herein.

(5) The director of planning and community development and the zoning enforcement officer are charged with the review of development proposals during the administrative review process to determine the potential for violation of this article and to assist potential emitters in their efforts to comply with the standards set forth herein.

(Ord. No. 01-5, § 6A-5, 5-7-2001)

Sec. 38-106. Noise levels.

(a) *Noise levels.* It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his premises in excess of the noise levels established in this article.

(b) *Noise level standards.* No person shall emit noise exceeding the levels stated herein.

TABLE INSET:

	Zone in Which Receptor is Located>			
Zone in Which Emitter is Located	Industrial (dBA)	Business (dBA)	Residential Day-time Hours (dBA)	Residential Night-time Hours (dBA)
Industrial	70	66	61	51
Business	62	62	55	45

Residential	62	55	55	45
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(c) *Background noise and impulse noise.*

(1) In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five dBA, provided that no source subject to this article shall emit noise in excess of 80 dBA at any time, and provided that this subsection shall not be interpreted as decreasing the noise level standards of this article.

(2) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during night-time hours.

(3) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time.

(d) *Short term noise.* In measuring compliance with the noise level standards, the following short term noise level excursions over the noise level standards established by this article shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith:

TABLE INSET:

Allowable Levels Above Standards (dBA)	Time Period of Such Levels (Minutes/Hour)
3	15
6	7
8	5

(e) *Existing noise sources.* Existing noise sources constructed between January 1, 1960, and June 15, 1978, shall be provided a permanent five dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Existing noise sources constructed prior to 1960 shall be provided a permanent ten dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source.

(f) *Motor vehicle noise.*

(1) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels as set forth in the regulations of the State of Connecticut Department of Motor Vehicles, Section 14-80a-4a entitled "Maximum Permissible Noise Levels For Vehicles."

(2) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this article.

(g) *Recreational vehicle noise.* No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article when the noise so generated exceeds the noise level standards in this article.

(h) *Existing state law.* Nothing in this article shall be construed to limit the powers of the police to enforce applicable state laws, including, but not limited to, breach of the peace, motor vehicle noise, or recreational vehicle noise.

(Ord. No. 01-5, § 6A-6, 5-7-2001)

Sec. 38-107. Enforcement.

Violations of this article shall be enforced by the chief of police. The chief of police may develop procedures consistent with this article, including, but not limited to: Metering, training, and issuance of violation notices.

(Ord. No. 01-5, § 6A-7, 5-7-2001)

Sec. 38-108. Violations and penalties.

(a) Any person found to be in violation of any sections of this article for the first time, who is willing to correct the violation, shall be given a two-week grace period in which to correct the violation. The chief of police shall refer the person found to be in violation to the director of planning and community development and the zoning enforcement officer to receive direction for corrective action. Provided all necessary applications related to the corrective action are filed with the relevant land use agency within the two-week grace period, the town manager may extend the grace period pending the review of the applications.

(b) Any person found to be in violation of any sections of this article: After the grace period referred to in subsection (a); or, who is unwilling to correct the violation; or, for the second or successive times, shall be fined in an amount not to exceed \$50.00 per day that such violation continues. The chief of police shall continue to meter the violation.

(c) In the event that the violation is not corrected and/or the fine is not paid, the chief of police may request that the town attorney determine appropriate legal or equitable action or proceeding before the superior court against the person or persons responsible for the violation. The remedies sought may include, but are not limited to, judicial enforcement of the fines and/or injunctive relief.

(Ord. No. 01-5, § 6A-8, 5-7-2001)

Sec. 38-109. Variance.

(a) Any person residing or doing business in the town may apply to the town manager for a variance from one or more of the provisions of this article which are more stringent than the state department of environmental protection's regulations for the control of noise, provided that the applicant supplies all of the following information to the town manager at least 20 days prior to the start of said activity:

- (1) The location and nature of activity.
- (2) The time period and hours of operation of said activity.
- (3) *The nature and intensity of the noise that will be generated.*
- (4) Any other information required by the town manager.

(b) No variance from these regulations shall be issued unless it has been demonstrated that:

- (1) The proposed activity will not violate any provisions of the state department of environmental protection regulations.
- (2) The noise levels generated by the proposed activity will not constitute a danger to the public health.
- (3) Compliance with this article constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at least five days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

(Ord. No. 01-5, § 6A-9, 5-7-2001)

Sec. 38-110. Zoning regulations.

All provisions of the zoning regulations (in appendix B) which are more stringent than those set forth herein, shall remain in force.

(Ord. No. 01-5, § 6A-10, 5-7-2001)

Secs. 38-111–38-140. Reserved.

ORDINANCE NUMBER

**AN ORDINANCE OF THE CITY OF NEW LONDON, CONNECTICUT,
PROVIDING FOR THE CONTROL OF NOISE POLLUTION WITHIN THE
CITY OF NEW LONDON.**

WHEREAS, the City of New London wishes to regulate noise within its City Limits; and

WHEREAS, Connecticut General Statutes Chapter 442, §22a-67, *et seq.*, authorizes a municipality to regulate noise by local ordinance; and

WHEREAS, exposure to loud, excessive and/or unnecessary noise affects and hinders the public health, safety and welfare of the City's citizens and guests; and

WHEREAS, the City wishes to protect the public health, safety and welfare of all of its citizens and guests.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF NEW
LONDON:**

Section 1. That the code of ordinances of the City of New London be amended by adding a section to be numbered _____ to read as follows:

A. Definitions

The following definitions shall apply in the interpretation and enforcement of this ordinance. Where terms are not defined under this section and are defined in the noise regulations of the Connecticut Department of Environmental Protection (Sections 22a-69-1.1, *et seq.*), they shall have the same meaning ascribed to them in those regulations. Otherwise, they shall have ascribed to them their ordinarily accepted meanings.

1. "Construction" shall mean any and all physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling, and paving.

2. "Daytime hours" shall mean the hours between 7:00 a.m. and 10:00 p.m. Monday through Saturday, and between 8:00 a.m. and 10:00 p.m. on Sunday (local time).

3. "Excessive noise" shall mean emitter noise zone levels from noise sources exceeding the standards set forth in Section 3 of this ordinance beyond the boundary of the emitter's noise zones.

4. "Mobile sources of noise" shall include, but are not limited to, such sources as aircraft, automobiles, trucks and boats.

5. "Nighttime hours" shall mean the hours between 10:00 p.m. and 7:00 a.m. Sunday through Friday, and between 10:00 p.m. and 8:00 a.m. Saturday (local time).

6. "Noise zone" shall mean an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way, water bodies, and waters of the State of Connecticut.

7. "Site" shall mean the area bounded by the property line on or in which a source of noise exists.

8. "Sound level meter" shall mean any instrument that is capable of measuring sound levels. The sound level meter shall conform to all applicable state and federal standards.

B. Classification of Noise Zones

1. Noise zone classifications shall be based on the actual use of any parcel or tract under single ownership, or in the case of vacant lands, based on the zoning district in which a parcel is located as described on the zoning map and in the zoning regulations of the town. Where multiple uses exist within a given noise zone, the least restrictive land use category for the emitter and receptor shall apply regarding the noise standards specified in Section 3 of this ordinance.

2. Class A Noise Zone/Uses. Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land. The land uses in this category shall include, but not be limited to, single and multiple-family homes, hotels, motels, religious facilities, hospitals, nursing homes, cultural activities, forest preserves, historic and monument sites, and vacant land zoned for residential or related uses requiring such protection.

3. Class B Noise Zone/Uses. Lands designated Class B shall generally be commercial in nature. The land uses in this category shall include, but not be limited to, retail trade, professional offices, government services, educational institutions, amusements, agricultural activities, automotive dealers and gasoline service stations, restaurants, bars and nightclubs, marinas and other water dependent uses, and vacant lands zoned for such commercial or institutional uses.

4. Class C Noise Zone/Uses. Lands designated Class C shall generally be industrial. The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, earth products excavation, processing and mining, and other lands zoned for such uses.

C. Noise Zone Standards.

No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her noise zone as measured at any point on a receptor's tract or parcel of land, so as to exceed the levels stated herein:

Receptor Noise Zone Class

	C	B	A- Day	A- Night
Class C emitter to	70 dBA	66dBA	61dBA	51dBA
Class B emitter to	62 dBA	62dBA	55dBA	45dBA
Class A emitter to	62dBA	55dBA	55dBA	45dBA

D. Exclusions.

These regulations shall not apply to the following:

1. Sound generated by natural phenomena.
2. The unamplified sounding of the human voice.
3. The unamplified sound made by any wild or domestic animal.
4. Sound created by bells, carillons, or chimes associated with specific religious observances and/or organizations.
5. Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, or located within or attached to a building, pole or other structure for the purpose of sounding or testing an alarm relating to fire or emergency management.
6. Sound created by safety and protective devices.
7. Farming equipment or farming activity.
8. Back-up alarms required by OSHA or other state or federal safety regulations.
9. Sound created by a mobile sources of noise. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, and has begun the physical process of loading or removing the contents of the vehicle.

E. Exemptions.

Exempted from this ordinance are the following:

1. Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted during daytime hours provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

2. Noises created by snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.

3. Noise created as a result of, or relating to, an emergency.

4. Construction noise.

5. Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities.

6. Patriotic or public celebrations not extending longer than one calendar day.

7. Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical powers, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements.

F. Measurement Procedures.

All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed. The sound level meter shall be calibrated before and after each set of measurements. Measurements shall be taken and documented at a point that is located approximately one foot beyond the boundary of the emitter's premises within the noise receptor's premises.

G. Enforcement - Penalty.

1. The City of New London Police Department shall be responsible for making noise level measurements and enforcing this ordinance. Whenever the responsible police officer makes a determination that there has been a violation of any provision of this ordinance, he shall issue a written order to such person(s) responsible for the violation specifying the nature of the violation and affording a reasonable time for its correction or remedy. If said order is not complied with as directed by the officer, the officer shall issue a citation.

2. Any person in violation of any of the provisions of this ordinance shall be fined in an amount not to exceed \$100. Each day on which a violation occurs or continues after the time for correction of the violation given in the order has elapsed shall be considered a separate violation of this ordinance.

Section 2. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Chapter 9.06 NOISE CONTROL**Sections:**9.06.010 Purpose.9.06.020 Legislative references.9.06.030 Definitions.9.06.040 Classification of noise zones by land use.9.06.050 Noise zone standards.9.06.060 Exclusions.9.06.070 Exemptions.9.06.080 Noise level measurement procedures.9.06.090 Enforcement--Violation--Penalty.9.06.100 Variance.**9.06.010 Purpose.**

The making, creation or maintenance of unreasonably loud, unnecessary or disturbing noises, as prescribed in this chapter, affect and are a detriment to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the town. The purpose of this chapter is to protect, preserve and promote the public health, safety and welfare insofar as they are affected by the creation and maintenance of excessive or unnecessary noise as defined by this chapter. This chapter prescribes a minimum and uniform standard governing the creation and maintenance of noise levels in the community.

(R.T.M. 8-2-93 (part))

9.06.020 Legislative references.

This chapter is adopted pursuant to the provisions of Section 22a-73 of the Connecticut General Statutes. This chapter is intended to conform to Section 22a-69 of the Connecticut General Statutes, except that this chapter may prescribe a more stringent noise standard as permitted in Section 22a-73(c) of the Connecticut General Statutes.

(R.T.M. 8-2-93 (part))

9.06.030 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. Where terms are not defined under the provisions of this chapter and are defined in the noise regulations of the Connecticut Department of Environmental Protection (Sections 22a-69-1.1 and 22a-69-1.2), they shall have the same meanings ascribed to them in those regulations. Otherwise, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

"Construction" means any, and all, physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling, and paving.

"Daytime hours" means the hours between seven a.m. and nine p.m., Monday through Saturday, and the hours between nine a.m. and nine p.m. on Sunday (local time).

"Excessive noise" means emitter noise zone levels from noise sources exceeding the standards set forth in Section 9.06.050 of this chapter beyond the boundary of the emitters noise zones.

"Mobile sources of noise" shall include, but are not limited to, such sources as aircraft, automobiles, trucks and boats.

"Nighttime hours" means the hours between nine p.m. and seven a.m., Sunday through Friday, and the hours between nine a.m. Saturday and nine a.m. Sunday (local time).

"Noise zone" means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way, water bodies, and waters of the state.

"Site" means the area bounded by the property line on or in which, a source of noise exists.

"Sound level meter" means an instrument, including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

(R.T.M. 8-2-93 (part))

9.06.040 Classification of noise zones by land use.

A. General.

1. Noise zone classifications shall be based on the actual use of any parcel or tract under single ownership, or in the case of vacant lands, based on the zoning district in which a parcel is located as detailed herein and described on the zoning map and in the zoning regulations of the town.

2. Where multiple uses exist within a given noise zone, the least restrictive land use category for the emitter and receptor shall apply regarding the noise standards specified in subsection A of Section 9.06.050 of these regulations.

B. Class A Noise Zone/Uses. Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land. The land uses in this category shall include, but not be limited to, single and multiple-family homes, hotels, motels, religious facilities, hospitals, nursing homes, cultural activities, forest preserves and vacant land zoned for residential or related uses requiring such protection. Residential zoning districts R-20, R-40, RU-120, VR, OS, R-MF, C-MF, CT MF, I-MF.

C. Class B Noise Zone/Uses. Lands designated Class B shall generally be commercial in nature. The land uses in this category shall include, but not be limited to, retail trade, professional offices, personal, business and legal services, educational institutions, government services, amusements, agricultural activities, and vacant lands zoned for such commercial or institutional uses. Commercial zoning districts NB, NBPO, CT, CG, WD, CR.

D. Class C Noise Zone/Uses. Lands designated Class C shall generally be industrial. The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, earth products excavation, processing and mining, and other lands zoned for such uses. Industrial zoning districts zoned IP1, IP3, IG, IC.

(R.T.M. 8-2-93 (part))

9.06.050 Noise zone standards.

A. No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her noise zone as measured at any point on a receptor's tract or parcel of land, so as to exceed the levels stated herein:

TABLE INSET:

Receptor Noise Zone Class				
	C	B	A-Day	A-Night

Class C emitter to	70 dBA	66 dBA	61 dBA	51 dBA
Class B emitter to	62 dBA	62 dBA	55 dBA	45 dBA
Class A emitter to	62 dBA	55 dBA	55 dBA	45 dBA

Sound levels determined by the police department to be in excess of these values shall constitute proof of violation of this chapter.

B. Intrusion Alarms.

1. No person shall cause, suffer, allow, or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle or thirty minutes when attached to any building or structure.

2. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

C. High Background Noise Areas. In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by five dBA, provided that no source subject to the provisions of subsection A of this section shall emit noise in excess of eighty dBA at any time, and provided that this section does not decrease the permissible levels of other sections of this regulation.

D. Impulse Noise.

1. No person shall cause or allow the emission of impulse noise in excess of eighty dB peak sound pressure level during nighttime hours.

2. No person shall cause or allow the emission of impulse noise in excess of one hundred dB noise sound pressure level at anytime.

E. Noise Excursions. In measuring compliance with noise zone standards of subsection A of this section, the following short-term noise level excursions over the noise level standards established by this chapter shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith.

TABLE INSET:

Allowable levels above standards (dBA)	Time period of such levels (minutes per hour)
3	15
6	7.5
8	5

F. Existing Noise Sources. All existing noise sources shall be provided twenty-four months in order to achieve compliance with these regulations if a notice of violation has been, or may be, issued to the source. This time period begins with the effective date of the ordinance codified in this chapter, not with the date of the notice of violation.

G. Prohibited Noise Activities. The following are prohibited noise activities:

Truck Idling: No person shall operate any standing motor vehicle with a weight in excess of ten thousand pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten minutes when such vehicle is parked on a residential premises or on a town road next to a residential premises. This prohibition shall not apply to vehicles operated by utility companies and the town while maintaining, repairing, or installing utilities, or road work including pumps

and generators needed to support the work. Vehicles involved in building operations shall be governed by the provisions of subsection C of Section 9.06.070.
(R.T.M. 8-2-93 (part))

9.06.060 Exclusions.

These regulations shall not apply to:

- A. Sound generated by natural phenomena;
- B. The unamplified sounding of the human voice;
- C. The unamplified sound made by any wild or domestic animal;
- D. Sound created by bells, carillons, or chimes associated with specific religious observances and/or organizations;
- E. Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, or located within or attached to a building, pole or other structure for the purpose of sounding or testing an alarm relating to fire or emergency management;
- F. Sound created by safety and protective devices;
- G. Farming equipment or farming activity;
- H. Back-up alarms required by OSHA or other state or federal safety regulations;
- I. Sound created by mobile sources of noise. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, and has begun the physical process of loading or removing the contents of the vehicle. Nor shall it apply to the operation of equipment or vehicles used in the processing, including destruction of bottles, boxes, crates and containers, junk or other waste material, excepting waste collection. Mobile sources shall include noise from motor vehicles participating in speed or endurance events sanctioned for such use by the town and state Department of Motor Vehicles;
- J. Sound created by construction activities on or uses of state or federal facilities, lands or rights of ways.

(R.T.M. 8-2-93 (part))

9.06.070 Exemptions.

Exempted from this chapter are:

- A. Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of eight a.m. and nine p.m., provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom;
- B. Noises created by snow removal equipment at any time shall be exempted, provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled, to prevent loud and/or explosive noises therefrom;
- C. Building Operations. The erection including excavating, demolition, alteration or repair of any building, or the excavation of streets and highways, between the hours of seven a.m. to nine p.m. on weekdays, and eight a.m. to nine p.m. on weekends; provided, that the building operations or operation of construction equipment after the hours listed herein shall not exceed the maximum noise levels as specified in subsection A of Section 9.06.050. Except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the first selectman, which permit may be granted and renewed for a period not to exceed five days, which allows these hours to be extended;
- D. Patriotic or public celebrations, such as parades, carnivals and fireworks displays, not extending beyond eleven p.m. are exempted, provided that a permit has been obtained in advance from the planning and zoning commission, or board of selectmen as applicable;

E. Noise created by blasting when the blasting is conducted between eight a.m. to five p.m., and provided that a permit for such blasting has been obtained from the Waterford fire marshal, except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the first selectman, which permit may be granted and renewed for a period not to exceed five days which allows these hours to be extended;

F. Noises created by emergency generators at any time when they are being used because of power outages, provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.

(R.T.M. 8-2-93 (part))

9.06.080 Noise level measurement procedures.

For the purpose of determining noise levels as set forth in this chapter, the following guide-lines shall be applicable:

A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation;

B. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter;

C. The general steps listed below shall be followed when preparing to take sound level measurements:

1. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed,

2. The sound level meter shall be calibrated before and after each set of measurements,

3. The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements,

4. Measurements shall be taken and documented at a point that is located approximately one foot beyond the boundary of the emitter's premises within the noise receptor's premises as measured by triangulation and/or public land records. The emitter's premises includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

(R.T.M. 8-2-93 (part))

9.06.090 Enforcement--Violation--Penalty.

A. Enforcement.

1. A police officer shall be responsible for making noise level measurements to determine that a violation of Section 9.06.050 has in fact occurred. Whenever the police officer determines that any of these regulations have been violated or there has been a failure to comply therewith, the officer shall make and serve upon the person(s) responsible for the violation a written order specifying the nature of the violation or failure, and affording a reasonable time for its correction or remedy. Prior to the issuance of such order, such officer shall make a reasonable effort in light of the circumstances to correct a violation or achieve compliance by means of conference, conciliation and persuasion. Unless the person(s) against whom an order has been served files a written answer thereto within thirty days after the date of service of the order and requests a hearing thereon, such order shall become final and effective.

2. The Waterford police department shall be responsible for the enforcement of any prohibited activity listed in subsection G of Section 9.06.050, and conducting any activity listed in Section 9.06.070 outside of the hours during which these activities may be conducted. When it has been determined that a violation has occurred it shall constitute an infraction of a local ordinance and shall be prosecuted as such.

B. Penalty for Violation. Any person in violation of any of the provisions of this chapter shall be fined in an amount not to exceed ninety five dollars. Each day on which a violation occurs or continues after the time for correction of the violation given in the order has elapsed or after thirty days from the date of service of the order, whichever is later, shall be considered a separate violation of these regulations.

(R.T.M. 8-2-93 (part))

9.06.100 Variance.

A. Any person living or doing business in the town may apply to the planning and zoning commission for a variance from one or more of the provisions of this chapter which are more stringent than the state Department of Environmental Protection regulations for the control of noise provided that the applicant supplies all the following information to the planning and zoning commission:

1. The location and nature of the activity;
2. The time period and hours of operation of the activity;
3. The nature and intensity of the noise that will be generated;
4. Any other information required by the planning and zoning commission.

B. No variance from these regulations shall be issued unless it has been demonstrated that:

1. The proposed activity will not violate any provisions of the state Department of Environmental Protection regulations;
2. The noise levels generated by the proposed activity will not constitute a danger to the public health;
3. Compliance with the regulations constitutes an unreasonable hardship on the applicant.

C. The application for variance shall be reviewed and either approved or rejected within sixty-five days of receipt by the planning and zoning commission. The approval or rejection shall be in writing and shall state the reasons for the action taken on the variance. The planning and zoning commission may establish conditions of approval of a variance including a schedule for compliance. The planning and zoning commission shall cause to have published in a newspaper of local circulation a notice of action on the variance request indicating the nature of the variance, action taken, location, owner, and applicant making the variance application.

D. In the case of variance applications involving requests to vary the standards in these regulations that are equivalent to the State Noise Regulations, the application must be made to the State Commissioner of the Department of Environmental Protection. Any variances issued by the Commissioner shall not be required to be submitted to the planning and zoning commission. Any variance issued by the Commissioner of the Department of Environmental Protection shall be considered a variance from compliance with the applicable provisions of these regulations.

(R.T.M. 8-2-93 (part))

From: Abby Piersall <apiersall@waterfordct.org>
Sent: Thursday, June 30, 2022 12:03 PM
To: Michael Bono_RTM; David Campo; childsmm@yahoo.com
Cc: Robert Avena
Subject: RE: RTM- Public Health Committee Questions

Hello,

Mary asked that I share language from the Zoning Regulations in advance of today's meeting. Temporary Forms of Outdoor Entertainment are issued by our Zoning Enforcement Officer, with input from other departments. They cannot be issued for more than 75 days each year on any one property. The Planning and Zoning Commission recently adopted new outdoor dining regulations, which specify that music associated with outdoor dining cannot violate any noise ordinance.

3.19 TEMPORARY FORMS OF OUTDOOR ENTERTAINMENT (Revised: 09/09/20)

The following temporary forms of outdoor entertainment may be allowed by Zoning Compliance Permit. No single activity may take place for more than 14 consecutive calendar days. The total of all activities permitted under this section on a single property shall not exceed 75 calendar days within a single year.

Such activities permitted under this provision shall include fairs, bazaars, concerts, dances, exhibitions, rodeos, circuses, carnivals, festivals, recurring performances, outdoor theater productions, or other similar activity.

An application for approval of such activity shall be submitted to the Zoning Enforcement Officer. The Zoning Enforcement Officer may require application submittal up to 21 days prior to the proposed start of the event. Prior to submitting an application, applicants shall contact the ZEO to ascertain any anticipated permit requirements and the amount of time necessary for review. Applications shall indicate the type of entertainment to be provided, the site of the event, and the period of time over which the event is to occur.

Such application shall be accompanied by a sketch of the site, to scale, indicating the location and method of sanitary facilities, provisions for off-street parking, provisions for traffic controls, provisions for fire safety, proposed seating arrangement, location of all temporary booths, canopies, and/or tents, and such other information as the Zoning Enforcement Officer may require in order to assure that the public health, safety, and welfare is addressed.

3.44 ACCESSORY OUTDOOR DINING (Effective Date: 5/31/22)

Accessory Outdoor Dining is permitted as an accessory use for all approved dining establishments, subject to the following provisions:

a. Application Review and Permitting Authority:

1. Accessory Outdoor Dining may be allowed by Zoning Compliance Permit as an accessory use to any permitted restaurant or café provided that no permanent physical changes will be made to the exterior of the property.
2. Accessory Outdoor Dining shall be subject to Site Plan review pursuant to Section 22 of these Regulations as an accessory use to any permitted restaurant or

café if improvements to accommodate the proposed Accessory Outdoor Dining will result in permanent physical changes to the exterior of the property.

- b. All Accessory Outdoor Dining shall be subject to the following provisions:
1. The area to be used for dining shall not be located within public rights of way, required fire lanes, handicap parking spaces, handicap accessible approaches to buildings, stormwater facilities, or drive-thru facilities and associated queuing lanes.
 2. Dining may be permitted in parking lots adjacent to the primary use provided that adequate parking in conformance with Section 20 of these regulations is provided on site or by written agreement with the owner of a contiguous property.
 3. Dining may be located on sidewalks adjacent to the primary use, provided that an unrestricted four (4) foot pedestrian access is maintained.
 4. Pedestrian access between the primary and accessory dining areas shall be provided. Positive vehicular traffic controls and associated signage may be required as determined by the Zoning Enforcement Officer in consultation with the Police Department or the Planning and Zoning Commission.
 5. Dining areas shall be separated from vehicles and pedestrians by fencing, planters, ropes, bollards, or similar barriers, or a combination thereof, and be between 30 and 42 inches in height. Barriers shall be clearly visible at all times. Limited lighting or reflective perimeter materials may be required.
 6. Separate or additional restroom facilities shall not be required for Accessory Outdoor Dining, unless required to meet applicable Building Codes.
 7. Accessory Outdoor Dining shall not be permitted if it would result in the expansion of a non-conforming use.
 8. Accessory Outdoor Dining may be permitted between the hours of 7am and 10pm.
 9. Music may be permitted by the Planning and Zoning Commission in association with Accessory Outdoor Dining, provided sound emitted from said music is not in violation of any applicable noise ordinance.
 10. Any other performance or special activity beyond those described in 3.44(9) shall be subject to separate permitting under Section 3.19 of these regulations governing Temporary Forms of Outdoor Entertainment.

Abby Y. Piersall, AICP

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Noise Nuisance: A New Twist on an Old Law

STATE AND MUNICIPALITIES SEEKS BEST WAY TO ENFORCE LAWS

By **AMBER N. SARNO** and
ANDREA L. GOMES

In recent years, noise nuisance as an issue in land development has emerged in new and interesting ways in Connecticut. While noise nuisance law has been around for a long time, recent cases have posed some peculiar noise measurement and compliance issues that may become more common in, and instructive for, the years ahead.

The law is clear that some level of noise in the use and enjoyment of one's property is to be expected; few people can reasonably expect to live in silent surroundings completely free from all interference. Nevertheless, noise impacts can still amount to a nuisance if they are irritating, disturbing or annoying. When they do, the noise "receptor"

a neighbor. Thus, where conduct *unreasonably interferes* with an individual's right to the use and enjoyment of her land, a private nuisance has occurred. An essential element in the analysis of a claim for a private nuisance hinges on the unreasonableness of the interference, which is based on the facts of each case; an unreasonable nuisance in one case can be completely reasonable, and thus, not a nuisance, in another.

On the other hand, public nuisance law is based on the interference of a right common to the general public, typically involving public health and safety. Common examples of a public nuisance include air pollution, the obstruction of waterways

Common examples of a public nuisance include air pollution, the obstruction of waterways, or other unsafe premises. Not surprisingly, noise can also constitute a public nuisance.

(the party allegedly suffering from noise nuisance) may be entitled to injunctive and monetary relief.

A nuisance can be characterized as either private or public. While there are some similarities between a private and a public nuisance, the two are distinct causes of action. Private nuisance law is based on the general premise that each person has a duty to use her property in a way that does not cause unnecessary damage or annoyance to

or other unsafe premises. Not surprisingly, noise can also constitute a public nuisance.

Noise is a form of pollution and is thus governed by our environmental protection state laws and regulations governing noise (see Connecticut General Statutes §§22a-67 et seq.; Regulations Connecticut State Agencies §§22a-69-1 et seq.). While the statutes and regulations establish minimum standards for background noise, measurements, decibel levels and types of noise, C.G.S. §22a-73 authorizes



Amber N. Sarno



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municipalities to enact noise ordinances that are stricter than state law standards. Local noise ordinances that impose greater restrictions must be approved by the Department of Energy and Environmental Protection (DEEP) and many municipalities across the state have taken advantage of developing and implementing more stringent noise ordinances and regulations.

Key Experts, Key Issues

While a thorough understanding of the state and local laws on noise is vital in any noise nuisance action, the retention of an experienced, credible acoustical engineer is critical to evaluating what is and is not a nuisance. The science behind acoustic modeling and sound mitigation is tricky. Thus, working with a skilled expert who can help navigate the testing process and understand the results can make or break a claim for noise nuisance.

For example, last year the central issue in a Connecticut case was the proper "metric" to be used in determining whether a noise emitter complied with state and local noise levels. In that particular instance, the local noise ordinance mirrored the state DEEP regulation, C.G.S. §22a-69-3.1, in that it prohibited any property owner from emitting noise beyond its property line in excess of pre-established noise levels.

This particular municipality prohibited noise beyond an owner's property line higher than 55 dBA during the daytime hours and 45 dBA during nighttime hours (dBA refers to "A-weighted" decibels, which reflect noise levels at frequencies audible to the human ear). The local noise ordinance was also stricter than the DEEP regulations, however, in that it did not allow "excursions," meaning limited time periods where noise levels may be higher than the stated maximum.

In court, the debate between each side's noise expert was based on which metric was appropriate: the "Lmax" metric, which measures the highest decibel level recorded at one-eighth-of-a-second intervals over a time period representative of the noise condition or emitter being evaluated, or the "Leq," or the average sound emitted over a specified time period, applied in determining compliance with both the state and local noise limits. While the dBA levels using the Lmax metric reflected consistent noise violations in excess of the 55 dBA limit during daytime hours, the dBA levels using the Leq metric indicated that the subject property was in compliance with the local noise levels.

Ultimately, the court determined that the Lmax metric applied because the local noise ordinance was concerned with exceedances, or peak noise levels, which exceed the maximum decibels established in the noise ordinance. The court noted that the Lmax metric more accurately reflected human experience with noise; people do not hear noise averages. As a result, the court issued a temporary injunction prohibiting

operation of the offending facility until a noise mitigation plan was submitted and approved by the court.

Community Standards

Notwithstanding the fact that Lmax is the proper metric in determining compliance with established state and local noise limits, there are situations where use of the Leq metric is appropriate. One such example is the measurement of "community noise," which the World Health Organization defines as noise emitted from all sources, other than from the industrial workplace. Sources of community noise can vary and can include everything from general neighborhood noise (such as the hustle and bustle from the local post office) and road traffic, to the use of appliances such as air conditioners.

Federal courts have consistently held that Congress has vested in federal agencies the authority to develop their own procedures and methodologies in conducting environmental analyses under the National Environmental Policy Act, which serves to ensure that each agency considers environmental concerns in its decision-making process, including noise concerns. See *Citizens Concerned About Jet Noise v. Dalton*, 48 F. Supp. 2d 582, 596 (E.D. Va. 1999) aff'd, 217 F.3d 838 (4th Cir. 2000).

Accordingly, in a line of cases having to do mostly with airport/airplane noise, numerous federal courts have upheld the use of the Leq metric in determining the overall or cumulative noise impact produced from a specific source. See, e.g., *Valley Citizens for a Safe Environment v. Aldridge*, 886 F.2d 458, 468-69 (1st Cir. 1989); *Morongo Band of Mission Indians v. FAA*, 161 F.3d 569, 578-79 (9th Cir. 1998).

In addition to the question of which metric to use, the type of noise being emitted is an important factor in evaluating a potential noise nuisance. Similar dBA levels of different types of noise can lead to markedly different levels of annoyance. For example,

heavy road traffic noise reflecting similar dBA levels to gunshots emitted from a neighboring gun range will generally affect noise receptors differently. Not surprisingly, road traffic is a more commonplace, steady stream of noise whereas gunshots are typically frightening bursts of sound. Ultimately, the type of noise being evaluated ties back to the question of reasonableness: is the noise interference beyond what the noise receptor should have to bear in the use and enjoyment of her property? If the answer is yes, then the noise receptor may be entitled to compensation.

Compliance

Ultimately, the key to choosing the right noise metric lies in the purpose of the noise analysis. Complaints of noise nuisance at the local level often focus on noise exceedances, or peak sound levels, which are properly captured by the Lmax metric. On the other hand, general evaluations of community noise standards, such as the cumulative noise emitted from an airport, are more appropriately measured by the Leq. Either way, the retention of an experienced engineer to help navigate the extraordinarily technical world of acoustics can be the key to successfully defending or prosecuting a noise nuisance case. ■

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