

ARTICLE III. - NOISE CONTROL^[3]

Footnotes:

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Cross reference— Noise from animals, § 6-43; noise, § 98-1052.

DIVISION 1. - GENERALLY

Sec. 34-131. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this article not defined in this section, shall be in conformance with applicable publications of the American National Standards Institute (ANSI), or its successor body.

Ambient (background) sound pressure level means the all-encompassing sound associated with a given environment, being usually a composite of sounds from all sources, excluding the alleged offensive sound, at the location and approximate time at which a comparison with the alleged offensive sound is to be made.

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

Cyclically varying noise means any sound which varies in sound level such that the same level is obtained repetitively at relatively uniform intervals of time.

Decibel (dB) means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter), denoted as dB.

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

Device means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Director means the town manager or his duly appointed representative.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an emergency.

Energy equivalent sound level (leq) means the sound level corresponding to the average sound energy during a specified period of time. Its calculation involves the conversion of decibels (a logarithmic quantity) to corresponding intensities (a linear quantity), performing the averaging, and finally changing the average back to decibels.

Impulsive sound means sound characterized by a peak less than one second in length, an abrupt onset, a rapid decay, and a peak sound level which exceeds the ambient sound level by 20dB(A) or more.

Motor vehicle means any vehicle propelled by mechanical power, such as, but not limited to, any passenger car, truck, truck-trailer, semitrailer, camper, motorcycle, minibike, go-cart, dune buggy or racing vehicle.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance means any unreasonably loud or disturbing noise which is offensive to an adult person within the town, which noise renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

Powered model vehicle means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

Public property means any real property or structures thereon which are owned or controlled by a governmental entity.

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

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this article, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

Quiet zone means property on which a school, hospital, clinic or other noise sensitive facility is operated.

Repetitive impulsive sound means any sound which is composed of impulsive sounds that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than ten dB(A).

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument for the measurement of sound, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and weighted networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure levels when properly calibrated and is of type H or better so specified in ANSI publication S1.4-1971 or its successor body.

Sound pressure level means expressed in decibels, 20 times the logarithm to the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

Stationary sound source means any device, fixed or movable, which is located or used on property other than a public right-of-way.

Use districts means those districts established by chapter 98, zoning. Planned development districts, for the purposes of this section, shall be considered as residential, commercial or industrial districts according to the primary use.

Vibration means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

(Code 1989, ch. 1, § 10.02)

Cross reference— Definitions generally, § 1-2.

Sec. 34-132. - Town department and contractors to comply with article regulations.

It is the policy of the town, that all its departments shall comply with the provisions and intent of this article, and that contractors and subcontractors shall be required to comply with the provisions of this article in their operations.

(Code 1989, ch. 1, § 10.01)

Sec. 34-133. - Exemptions.

The following sources of potentially excessive sound shall be exempt from noise control regulation:

- (1) Safety signals, storm warning sirens or horns and the testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.
- (2) Sound caused in the performance of emergency or public service work, including public utility operations, acting to protect the health, safety or welfare of the community.
- (3) Sounds caused by natural phenomena.
- (4) Activities conducted on public parks, public playgrounds and public or private school grounds including, but not limited to, school athletic and school entertainment events.

(Code 1989, ch. 1, § 10.06)

Secs. 34-134—34-150. - Reserved.

DIVISION 2. - ADMINISTRATION^[4]

Footnotes:

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Cross reference— *Administration, ch. 2.*

Sec. 34-151. - Enforcement responsibility.

The town manager or designated representative will have enforcement responsibility for this article.

(Code 1989, ch. 1, § 10.10)

Sec. 34-152. - Proposed developments.

Any person who makes application for a certificate of occupancy or a building permit that may result in the creation of noise or may create a violation of any provision of this article shall consult with the director prior to any such application.

(Code 1989, ch. 1, § 10.09)

Sec. 34-153. - Implementation and enforcement of article provisions.

- (a) The noise control program required by this article shall be administered by the director of the town.
- (b) In order to implement and enforce this article and for the general purpose of sound and vibration abatement and control, the director or his duly appointed representative shall have the power to, upon presentation of the proper credentials, make necessary inspections and tests with the proper authorization or permission from the owner on any private property or place.

(c)

Sound level measurement shall be made with a sound level meter Type II or better using the A-weighting network in accordance and conforming with the noise measurements standards promulgated by the American National Standards Institute or its successor body.

(Code 1989, ch. 1, § 10.03)

Sec. 34-154. - Permits of variance.

The director is authorized to grant permits for relief of any provision in this article on the basis of undue hardship in cases where:

- (1) The sound source will be of short duration and the activity cannot be conducted in a manner as to comply with this article.
- (2) Additional time is necessary for the applicant to alter or modify their activity or operation to comply with this article.
- (3) No reasonable alternative is available to the applicant.
- (4) An automatic variance will be granted without the payment of permit fees for the purpose of conducting parades or other public events, provided that any noise disturbance created by such activity will be abated when such request is made by a town official authorized to enforce this article.
- (5) The town manager or designated representative may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued for violating any provisions prescribed in the permit of variance.

A nominal fee shall be charged to each applicant for processing permit applications. Fee schedules shall be approved by town council resolution.

(Code 1989, ch. 1, § 10.07)

Sec. 34-155. - Appeals.

- (a) Any applicant who has been denied a permit of variance or any permittee whose permit has been suspended shall have the right to a hearing before the town council.
- (b) Requests for a hearing shall be made in writing and received by the director within ten days of the date of the denial or the issuance date of the notice on suspension. The director shall schedule a hearing before the town council within 20 days of receipt of the request.
- (c) The town council shall have the authority to review all pertinent files and information regarding the applicant/permittee which are in the custody of the director. Additionally, the town council shall have the authority to accept written and verbal testimony from the director, applicant and interested citizens.
- (d) The town council shall have the authority to assess whether the director acted properly within its powers under this article in its denial or suspension of a permit. The majority vote of the town council shall determine whether to uphold or reject the director's action. Upholding the action of the director shall affirm the denial or suspension. Rejection of the director's action shall automatically reinstate a suspended permit.
- (e) No person whose permit has been denied or suspended, shall create or allow the creation of the noise in dispute prior to final determination by the town council.

(Code 1989, ch. 1, § 10.08)

Sec. 34-156. - Injunctive relief.

In addition to and accumulative of all other penalties, the town shall have the right to seek injunctive relief for any and all violations of this article.

(Code 1989, ch. 1, § 10.11)

Secs. 34-157—34-180. - Reserved.

DIVISION 3. - REGULATIONS

Sec. 34-181. - Noise standards.

- (a) The following noise standards, unless otherwise specifically indicated, shall apply to all property with a designated land use district:

TABLE 34-1

LIMITING SOUND LEVELS FOR LAND USE DISTRICTS

Land Use District	Time of Day	Energy Equivalent Sound Levels (Leq)
Residential	10:00 p.m. to 7:00 a.m.	52 dB(A)
	7:00 a.m. to 10:00 p.m.	<u>62</u> dB(A)
Office, retail	10:00 p.m. to 7:00 a.m.	<u>62</u> dB(A)
Commercial	7:00 a.m. to 10:00 p.m.	67 dB(A)
Industrial	Anytime	70 dB(A)

- (b) It shall be unlawful for any person at any location in the town to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on or beyond the boundaries of the property on which the noise is produced, or measured within any other residential dwelling unit or commercial space, to exceed:
- (1) The noise standard in any measurement period not less than 30 minutes.
 - (2) The noise standard, plus 15 dB(A) in any one minute average of a measurement period.
 - (3) The noise standard, plus 20 dB(A) at any time in a measurement period.
- (c) For the purpose of enforcing the provisions of this section, a measurement period shall not be less than 30 minutes.
- (d) The sound level limits established in Table 34-1 as set out in subsection (a) of this section for residential districts shall be applicable to all quiet zones.
- (e) If the ambient sound level exceeds the resulting standards, the ambient level shall be the standard.
- (f) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the applicable standard in the receiving land use district on which the sound is measured.
- (g) Correction for character of sound. For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in Table 34-1 which is set out in subsection (a) of this section shall be reduced by five dB(A). Notwithstanding compliance with this subsection, it shall be a violation of this article for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying, or repetitive impulsive sound which creates a noise disturbance.
- (h) When the land use district design of the property on which the source of sound originates differs from the designation of the property on which the sound is measured, the maximum permissible sound level of the more restrictive land use district designation shall apply.

- (i) For sound emitted on public property, the measurement distance shall be 50 feet (15 meters), and the sound level limit for the appropriate land use district shall apply.

(Code 1989, ch. 1, § 10.04)

Sec. 34-182. - Prohibited noise.

- (a) No person shall allow, make or cause to be made any unreasonably loud or disturbing noise in the town which is offensive to an adult person within the town, which noise renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort, nor shall any person allow, make or cause to be made any unreasonably loud or disturbing noise in the town.
- (b) The following activities, among others but not to exclude other such acts, are declared to create unreasonably loud or disturbing noises in violation of this article, unless a permit of variance as provided in section 34-154 is first obtained, namely:
- (1) *Animals.* Owning, keeping, possessing or harboring any animals which, by noise making, disturb or interfere with the peace, comfort or repose of neighboring residents, or cause a noise disturbance. The provisions of this article shall apply to all public and private facilities, including any animal shelter or commercial kennel, which hold or treat animals.
 - (2) *Radios, television sets, musical instruments, loud speaking amplifiers and similar devices.* The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to violate section 34-181 or cause a noise disturbance. The operation of any such radio, instrument, phonograph, television set, machine, loudspeakers or similar device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this article. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any cause or demonstration, or to any performance, show, sale or display of merchandise so as to attract customers to any place of business when such use is done in a manner which violates section 34-181 or causes a noise disturbance. The use of mechanical devices, loudspeakers, sound amplifiers or other instruments or devices on trucks or other moving vehicles for the purpose of attracting attention to any cause or demonstration, or for advertising any show, sale or display of merchandise when such use is done in a manner which violates section 34-181 or causes a noise disturbance.
 - (3) *Yelling, shouting, hooting, whistling and singing.* The yelling, shouting, crying, hooting, whistling or singing of peddlers, hawkers or any other person in a manner that causes a noise disturbance.
 - (4) *Loading operations.* The loading or unloading of any vehicle between the hours of 7:00 p.m. and 7:00 a.m. the following day on any premises in a residential district, or within 500 feet of any residence in such a manner as to cause a noise disturbance.
 - (5) *Construction work.* Operating or permitting to be operated in a nonresidential district any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto which exceed the sound level limits for an industrial land use as set forth in section 34-181 as measured on the property boundary of the receiving land use. Operating or permitting to be operated in a residential district, or within 500 feet of any residence, any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto and/or the erection, including excavation, demolition, alteration or repair of any building in a residential district, or within 500 feet of any residence, at times other than between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday and Sunday.
 - (6)

Vehicle repairs or testing. The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft on private property, on a public right-of-way, on a public space, or in a quiet zone, between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance.

- (7) *Impulsive sources.* Causing impulsive sound sources including, but not limited to, the use of fireworks, explosives, the firing of guns or other explosive devices in such a manner as to cause a noise disturbance. This is not intended to preclude any existing ordinances prohibiting such acts.
- (8) *Powered model mechanical devices.* The flying of model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise producing devices, between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance.
- (9) *Refuse compacting vehicles.* Operating or permitting to be operated any refuse compacting, processing or collection vehicle or parking lot sweeper between the hours of 10:00 p.m. and 7:00 a.m. the following day in any residential district, or within 500 feet of any residence in such a manner as to cause a noise disturbance.
- (10) *Quiet zone.* Creating a noise disturbance on any street adjacent to any school, hospital, clinic or other noise sensitive facility, when conspicuous signs are located at such streets indicating that schools, hospitals, clinics or other noise sensitive facilities are adjacent thereto.
- (11) *Vibration.* Using or causing the use of any device that creates any ground vibration which is perceptible without instruments at any point on or beyond the property boundary of the source if on private property or at 50 feet from the source if on a public space or public right-of-way.
- (12) *Stationary nonemergency signaling devices.* Sounding or permitting the sounding of any electronically activated or amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place for more than five minutes during any consecutive 60-minute period.

(Code 1989, ch. 1, § 10.05)

Secs. 34-183—34-200. - Reserved.