

Chapter 38. Noise

[HISTORY: Adopted by the Town Board of the Town of North Hempstead 10-21-2003 by L.L. No. 13-2003.^[1]
Amendments noted where applicable.]

GENERAL REFERENCES

Dogs — See Ch. 14.

Explosives — See Ch. 19.

Grading and soil removal — See Ch. 25.

Regulation of Town park, Town gardens and Town docks — See Ch. 39.

Taxicabs, limousines and private livery vehicles — See Ch. 52.

[1] *This local law also repealed former Ch. 38, Noise, adopted 12-17-1968, as amended.*

§ 38-1. Legislative intent.

It is hereby found and declared that the making and creation of unreasonably loud, disturbing or unusual noises affect and are a detriment to the peace, welfare, safety, convenience, and health of the residents of the Town, and it is the policy of the Town to prevent such noises. The public interest requires that the provisions and prohibitions contained herein be enacted for the purpose of securing and promoting the public health and welfare of the Town.

§ 38-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

DECIBEL (dB)

A unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

DEMOLITION

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

EMERGENCY

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

EMERGENCY WORK

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

MUFFLER or SOUND DISSIPATIVE DEVICE

A device for abating the sound of escaping gases of an internal combustion engine.

NOISE

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

NOISE DISRUPTION

The creation of any sound which interferes with the reasonable and normal activities of reasonable persons of normal sensitivities lawfully occupying an area adjacent to the source of said sound.

NOISE DISTURBANCE

Any sound which endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

NOISE-SENSITIVE ZONE

Any area designated pursuant to this chapter for the purpose of ensuring exceptional quiet.

PERSON

Any individual, association, partnership or corporation, and including any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

POWERED MODEL VEHICLE

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

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon which are owned or controlled by a governmental entity.

REAL PROPERTY BOUNDARY

A line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RESIDENTIAL AREA

An area designated for any residential use under the Code of the Town of North Hempstead.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

TIME

All "time" references are made to prevailing time.

VIBRATION

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

WEEKDAY

Any day, Monday through Friday, which is not a legal holiday.

§ 38-3. Prohibited acts.

A. Noise disturbances prohibited.

- (1) No person shall make, continue or cause to be made or continued any noise disturbance at any time.
- (2) In determining whether a violation of this section exists, the following factors shall be considered:
 - (a) The volume and intensity of the sound;
 - (b) The vibration intensity of the sound;
 - (c) Whether the nature of the sound is usual or unusual;

- (d) Whether the origin of the sound is natural or unnatural;
 - (e) The volume and intensity of the background sound, if any;
 - (f) The proximity of the sound to residential sleeping facilities;
 - (g) The nature and zoning of the area within which the sound emanates;
 - (h) The time of day or night the sound occurs;
 - (i) The duration of the sound; and
 - (j) Whether the sound is recurrent, intermittent, or consistent.
- B. Specific prohibitions. The following acts and the causing thereof are declared to be in violation of this chapter:
- (1) Radios, television sets, musical instruments and similar devices.
 - (a) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:
 - [1] Between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to create a noise disruption across a real property boundary or within a noise-sensitive zone.
 - [2] In such a manner as to create a noise disruption at approximately 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space or in a boat on public waters.
 - [3] In such a manner as to create a noise disruption to any person other than the operator of the device, when operated by any passenger on a common carrier.
 - (b) This section shall not apply to noncommercial spoken language covered under Subsection **B** (2).
 - (2) Loudspeakers and public address systems: using or operating for any purpose any loudspeaker, public address or similar device such that the sound therefrom creates a noise disruption across a real property boundary or within a noise-sensitive zone or between the hours of 10:00 p.m. the previous day to 8:00 a.m. on a public right-of-way or public space.
 - (3) Street sales: offering for sale or selling anything by shouting or outcry within any residential or commercial area of the Town, except in a stadium or sports arena.
 - (4) Animals and birds: owning, possessing or harboring any animal or bird which, for a long and continuous and frequent duration in excess of 15 minutes, howls, barks, meows, squawks or makes other sounds which create a noise disruption across a residential real property boundary or within a noise-sensitive zone.
 - (5) Loading and unloading: loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 10:00 p.m. the previous day to 8:00 a.m. in such a manner as to cause a noise disruption across a residential real property boundary or within a noise-sensitive zone.
 - (6) Commercial equipment: operating or permitting the operation of any commercial equipment, including but not limited to air-conditioning and refrigeration systems, between the hours of 10:00 p.m. the previous day and 8:00 a.m. in such a manner as to create a noise disturbance across a residential real property boundary or within a noise-sensitive zone.
 - (7) Construction: the erection, including excavation, demolition, alteration or repair, of any building, and the operating or permitting the operation of any tools or equipment used in such work.
 - (a) Restrictions:
 - [1] Between the hours of 6:00 p.m. the previous day to 7:30 a.m., weekdays, and at any time on weekends or holidays, such that the sound therefrom creates a noise disruption across a residential real property boundary or within a sound-sensitive zone, except for cases of urgent

necessity in the interest of public safety and then only with a permit from the Building Department, which permit may be renewed for a period of three days or less while the emergency continues, or public service utilities.

- (b) This section shall not apply to the use of domestic power tools subject to Subsection **B(16)** when said operation is limited to work that does not require a building permit.
- (8) The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise or the repairing, rebuilding, modifying or testing of any motor vehicle, motorcycle or motorboat, where such activity is allowed by the Code of the Town of North Hempstead, in such a manner as to create a noise disruption across a residential real property boundary or within a noise-sensitive zone from 7:00 p.m. the previous day to 8:00 a.m., weekdays, and at any time on weekends or holidays.
- (9) Airport and aircraft operations: Nothing in this section shall be construed to prohibit, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with or pursuant to applicable federal laws, regulations and local laws and ordinances.
- (10) Explosives, firearms and similar devices: the use or firing of explosives, firearms or similar devices which create impulsive sound so as to create a noise disruption across a real property boundary or on a public space or right-of-way.
- (11) Powered model vehicles: operating or permitting the operation of powered model vehicles so as to create a noise disruption across a residential real property boundary, in a public space or within a noise-sensitive zone between the hours of 9:00 p.m. the previous day to 8:00 a.m. on weekdays or at any time on weekends or holidays.
- (12) Vibration: operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at approximately 50 feet from the source if on a public space or public right-of-way. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. This section shall not apply to construction activities performed in compliance with all applicable federal state and any local laws and ordinances.
- (13) Stationary nonemergency signaling devices.
- (a) Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes, from any place, for more than one minute in an hourly period.
- (b) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.
- (14) Emergency signaling devices.
- (a) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing as provided in Subsection **B(14)(b)**.
- (b) Testing.
- [1] Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed but not before 9:00 a.m. or after 6:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.
- [2] Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 9:00 a.m. nor after 6:00 p.m. The time limit specified in subsection **B(14)(b)[1]** shall not apply to such complete system testing.

- (c) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within 20 minutes of activation.
- (15) Motorboats: operating or permitting the operation of any motorboat in any harbor, bay, sound area or other waterway in such manner as to create a noise disruption at approximately 50 feet or the nearest shoreline, whichever distance is less.
- (16) Domestic power tools: operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snowblower or similar device used in residential areas between the hours of 7:00 p.m. the previous day to 8:00 a.m., Monday through Friday, and 5:00 p.m. the previous day to 10:00 a.m. on a Saturday, Sunday or holiday, so as to cause a noise disruption across a residential real property boundary.
- (17) Tampering. The following acts or the causing thereof are prohibited:
 - (a) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair or replacement, of any noise-control device or element of design.
 - (b) The moving or rendering inaccurate or inoperative of any sound-monitoring instrument or device positioned by or for the Town of North Hempstead or its agent or employee, provided that such device or the immediate area is clearly labeled or identified.
 - (c) The use of a product which has a noise-control device or element of design rendered inoperative, with knowledge that such action has occurred.
- (18) Leaf blowers: the operation of any motorized leaf blower, lawn mower, hedge, lawn or tree trimmer, mulcher or similar device on a weekday prior to 8:00 a.m. or after 7:00 p.m. or on a Saturday, Sunday or legal holiday prior to 10:00 a.m. or after 5:00 p.m.
- (19) The use and operation of sound devices and apparatus for any commercial or business advertising purposes is prohibited. It shall be unlawful for any person to use or operate or cause to be used or operated any sound device or apparatus in, on, near or adjacent to any public street, park or place for commercial or business advertising purposes.
- (20) The sounding of any horn or signal device on any automobile, truck, bus or other vehicle, except as a warning signal pursuant to the provisions of the Vehicle and Traffic Law of the State of New York.
[Added 2-28-2006 by L.L. No. 3-2006]

§ 38-4. Violations concerning commercial or business advertising.

- A. It shall be unlawful for any person to use or operate or cause of be used or operated any sound device or apparatus in, on or near or adjacent to any public street, park or place for commercial or business advertising purposes.
- B. It shall be unlawful for any person to operate or drive or employ, procure or induce another to operate, drive, lend, lease or donate any automobile, truck or other type of vehicle or to operate or aviate or procure or induce another to operate, aviate, lend, lease or donate any airplane or other type of flying device for commercial or business advertising by means of any sound device or apparatus in violation of this chapter.
- C. The use of the name of any person or of any proprietor, vendor or exhibitor or the use of any trade, business or corporate name in connection with such commercial or business advertising shall be presumptive evidence that such advertising was conducted by reason of employment, procurement or induction on the part of said person, proprietor, vendor or exhibitor or the person or persons represented by said trade, business or corporate name.

§ 38-5. Immediate threats to health and welfare; other remedies.

- A. Immediate threats to health and welfare.

- (1) The Town of North Hempstead or its agent or employee shall order an immediate halt to any sound which exposes any person to continuous sound levels in excess of those shown in Table I or to impulsive sound levels in excess of those shown in Table II. Within five days following issuance of such an order, the Town of North Hempstead or its agent or employee shall apply to the appropriate court for an injunction to replace the order.
- (2) Any person subject to an order issued pursuant to Subsection **A(1)** shall comply with such order until the sound is brought into compliance with the order, as determined by the Town of North Hempstead, or its agent or employee, or a judicial order has superseded the Town of North Hempstead or its agent or employee.

Table I
Continuous Sound Levels Which Pose an Immediate Threat to Health and Welfare (measured at 50 feet or 15 meters)

Sound Level (dBA)	Limit Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

Table II
Impulsive Sound Levels Which Pose an Immediate Threat to Health and Welfare (measured at 50 feet or 15 meters)

Sound Level (dBA)	Limit Number of Repetitions per 24-Hour Period
145	1
135	10
125	100

B. Other remedies. No provision of this chapter shall be construed to impair any common law or statutory cause of action or legal remedy therefrom of any person for injury or damage from any violation of this chapter or from other law.

§ 38-6. Penalties for offenses.

[Amended 10-18-2005 by L.L. No. 9-2005]

- A. Any person or persons who shall violate any of the provisions, with the exception of § **38-3B(7)**, of this chapter shall be punished as follows:
 - (1) For conviction of a first offense, by a fine of not less than \$100 and not more than \$350 or by imprisonment not exceeding 10 days, or by both.
 - (2) For conviction of the second of two offenses, both of which were committed within a period of one year, by a fine of not less than \$350 and not more than \$750 or by imprisonment not exceeding 30 days, or by both.
 - (3) For conviction of a third or subsequent offense of a series of offenses, all of which were committed within a period of two years, by a fine of not less than \$750 and not more than \$1,250 or by imprisonment not exceeding 60 days, or by both.
- B. Any person or person who shall violate § **38-3B(7)** of this chapter shall be punished as follows:
 - (1) For conviction of a first offense, by a fine not less than \$500 and not more than \$1,500 or by imprisonment not exceeding 15 days, or by both.

- (2) For conviction of the second of two offenses, both of which were committed within a period of one year, by a fine not less than \$1,500 and not more than \$3,000 or by imprisonment not exceeding 30 days, or by both.
- (3) For conviction of a third or subsequent offense of a series of offenses, all of which were committed within a period of two years, by a fine of not less than \$3,000 and not more than \$5,000 or by imprisonment not exceeding 60 days, or by both.

§ 38-7. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the litigation in which such judgment shall have been rendered.