

Ordinance Committee
Agenda
January 10, 2022
4:30 p.m.
Hybrid Meeting
Zoom Meeting

Received 1:28 PM
January 6, 2022
Susan J. Jeanfavre
Assistant Town Clerk

Join Zoom Meeting

<https://us02web.zoom.us/j/81891844903?pwd=QXk3eFE4YXhNZ0gxRmhWWVJzeTdkUT09>

Phone in (929) 205-6099

Meeting ID: 818 9184 4903

Passcode: 837476

➤ Call to order

➤ Minutes

New Business

➤ Approve passed ordinances pending at American Legal Publishing

Old Business

➤ Child Safety Zone

➤ Noise Ordinance

Other Business

➤ Public Comment

➤ Adjourn

Morris Ordinance Committee
Minutes of November 01, 2021

The regular meeting of the Morris Ordinance Committee was called to order at 1:31 p.m. by Chairman Bridget Garrity. In attendance were Chairman Bridget Garrity, Town Clerk Laura Halloran, Bev Huntley, Ben Paletsky, Maureen Doyle, and First Selectman Tom Weik. Also in attendance were residents Bob Klug and Lori Lindenmuth.

On a motion by Bev Huntley, second by Maureen Doyle, it was voted to approve the minutes of September 12, 2021 as reported. **Motion carried:** unanimous.

New Business

"Child Safe Zone" - Chairman Garrity expressed concerns regarding information contained in the proposed ordinance presented by Jason Mangini. Two particular concerns were the decline in population of Morris and the declining enrollment of students at James Morris School.

Motion made by Chairman Garrity, second by Maureen Doyle, to have Ben Paletsky draft an email to Jason Mangini requesting he attend our December 6th meeting and present the Committee with the information he obtained regarding decrease in town population and declining enrollment at James Morris School. Ben will forward email to Jason Mangini after approval of Chairman Garrity. So voted. **Motion carried:** unanimous.

"Prohibiting Cannabis Establishments As Land Use" - After discussion on the proposed ordinance, forwarded to the Committee by the Board of Selectman, Chairman Garrity stated, as the question of the sale of cannabis in the town of Morris is on the election day ballot, the determination to move the issue forward would depend on the outcome of the vote. If the question passed, the Committee would forward the proposed ordinance to the Planning and Zoning Commission, if the question was defeated, there would be no further discussion.

On the use of cannabis on municipal property, First Selectman Weik will contact Atty. Rybak to review the proposed ordinance for the purpose of validity.

Old Business

"Intentional Baiting of Wildlife" - Motion by Bev Huntley, second by Laura Halloran, to forward proposed ordinance to the Board of Selectman for review by DEEP. **Motion carried:** unanimous.

"Noise Ordinance" - Motion by Bev Huntley, second by Chairman Garrity, to have First Selectman Weik request Atty. Rybak attend our December meeting to discuss and advise on the proposed ordinance. **Motion carried:** unanimous.

Public Comment

Resident Bob Klug stated that because of Committee member Ben Paletsky's conflict of interest with regard to both proposed ordinances concerning noise and cannabis he step down from the Ordinance Committee. Chairman Garrity responded that since we do not know the direction the two proposed ordinance will take the request, at this time, was premature.

Motion by Bev Huntley, second by Maureen Doyle, to adjourn meeting at 2:56 p.m.
Motion carried: unanimous.

Respectfully submitted,
Maureen Doyle, Secretary

Purpose.

The Town of Morris (the "Town") has a compelling interest in protecting children from the threat of sexual abuse from child sex offenders. Therefore, it is hereby resolved that, to preserve and promote the health, safety and general welfare of the children of the Town, it is in the common interest to enact reasonable regulations restricting child sex offenders from entering Child Safety Zones.

Definitions.

When used in this chapter, the terms, phrases, words and derivations shall have the meanings set forth thereafter. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory. Terms not defined below shall have the meanings set forth in Section 54-250 of the Connecticut General Statutes, as amended.

CHILD SAFETY ZONE

Any park, school, playground, recreation center, bathing beach, youth farm enterprises, day care facilities, swimming pool or wading pool, gymnasium, sports field, or sports facility, which is: 1) under the jurisdiction of any department, agency, or authority of the Town, including, but not limited to, the Board of Education of the Region 6 District; or 2) leased by the town to another person or entity for the purpose of operating a park, school, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility. "Child Safety Zone" also includes any and all buildings, land, parking areas or other improvements located on the same parcel on which each of the aforementioned facilities is located, but does not include any public

street, and also does not include any public sidewalk which is located on the outside boundary of a Child Safety Zone.

CHILD SEX OFFENDER

A.

A person who:

(1)

Has been convicted or found not guilty by reason of mental disease or defect of any one or more of the following offenses as defined in Section 54-250 of the Connecticut General Statutes, as amended:

(a)

A "criminal offense against a victim who is a minor";

(b)

A "nonviolent sexual offense";

(c)

A "sexually violent offense"; or

(d)

Any felony that the court finds was committed for a "sexual purpose"; and

(2)

Is required to register with the Commissioner of Public Safety pursuant to Section 54-251, 54-252, 54-253 or 54-254 of the Connecticut General Statutes, as amended; or

B.

A person who has been convicted or found not guilty by reason of mental disease or defect in any other state, in a federal or military court or in any foreign jurisdiction, of any crime, the essential elements of which are substantially the same as any of the crimes specified in Subdivisions (2), (5) and (11) of Section 54-250 of the Connecticut General Statutes, as amended, and which requires registration as a sexual offender in such other state or in the federal or military system, and who resides in this state on and after October 1, 1998.

Prohibition.

It shall be unlawful for a child sex offender to be present in a Child Safety Zone.

Exclusions.

This chapter shall not apply:

A.

To any person whose name has been removed from the Connecticut Department of Public Safety's Sex Offender Registry ("Sex Offender Registry") or from the registry of any other state or in the federal or military system by act of a court or by expiration of the term such person is required to remain on such registry.

B.

To any child sex offender who enters into a facility in a Child Safety Zone for the sole purpose of voting in any municipal, state or federal election or referendum, provided that the person leaves the facility immediately after voting.

C.

To any child sex offender who enters a Child Safety Zone for the purpose of dropping off or picking up his or her own child, provided that the child sex offender leaves the zone immediately after dropping off or picking up his or her child.

D.

To any child sex offender who enters a Child Safety Zone for the purpose of meeting with an adult, such as a teacher, administrator or nurse, to discuss his or her own child's medical or educational issues, provided that

the child sex offender leaves the zone immediately after completing the meeting or discussion.

E.

To the extent that the conduct prohibited by this chapter is in conflict with any sentence or order of probation or parole imposed upon a sex offender.

Notice.

A.

The Chief of Police or his designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this chapter (which notice shall contain a copy of the chapter) to all persons who are listed on the Sex Offender Registry as of the effective date of this chapter, as well as those persons who are added to the Sex Offender Registry thereafter, which persons' addresses (as shown on the Sex Offender Registry) are within the Town. Such notice requirement may be satisfied by the mailing of such notice by registered or certified mail, return receipt requested, to the last known address of such person as listed on the Sex Offender Registry or as otherwise known to the Chief of Police. The failure of any person to receive such actual written notice shall not be a defense to a violation of this chapter.

B.

Each Child Safety Zone shall be identified by a sign conspicuously posted at the primary entrance to the zone and any building within the zone.

Enforcement, penalties for offenses.

A.

If a police officer reasonably believes that a child sex offender is in a Child Safety Zone in violation of this chapter, the officer shall require the suspected child sex offender to provide his/her name, address, and

telephone number. If it is established that the individual is a child sex offender, then the officer may issue a citation to the offender and shall require the offender to leave the Child Safety Zone.

B.

Any person in violation of this chapter shall be fined in the amount of \$250 for each violation.

Severability.

Any provision of this chapter held to be unconstitutional or superseded by state law or regulation shall not serve to invalidate the remaining unaffected provisions hereof. No provision of this chapter shall serve to validate any activity otherwise prohibited by state or local law or lawfully enacted zoning regulations.

Draft Submitted to Ordinance Committee

08/25/21

1. Legislative intent.

The Residential Districts in the Town of Morris are intended to provide suitable areas primarily for residential uses and development appropriate to the environmental characteristics of the land and harmonious character of the neighborhood. Government is instituted to protect life, liberty and property. Loud, excessive and unreasonable noise is an interference with a person's right to the use and enjoyment of his property, especially in residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land. The purpose of this chapter is to provide an objective standard and procedure for enforcing property rights.

2. Definitions.

As used in this chapter, the following items shall have the meanings indicated:

DAYTIME HOURS: The hours between 7:00 a.m. and 8:00 p.m.

DECIBEL: A logarithmic unit of measure in measuring magnitudes of sound. The symbol is "dB."

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

EMITTER: A person who creates, causes to be created or allows the noise.

IMPULSE NOISE: Sound of short duration (generally less than one second) with an abrupt onset and rapid decay.

NOISE: Any sound, the intensity of which exceeds the standards set forth in Section 5 of this chapter.

NOISE LEVEL: The sound pressure level, as measured with a sound level meter.

PERSON: Any individual, including the singular and plural, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political administrative subdivision of the state or on 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. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way and waters of the state.

PROPERTY LINE: That real or imaginary line along the ground surface and its vertical extension which:

- A. Separates real property owned or controlled by another person; and
- B. Separates real property from the public right-of-way.

RECEPTOR: The person who receives the noise impact.

SOUND: The 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 the 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.

3. Excessive noise prohibited.

It shall be unlawful for any person to emit or cause to be emitted any noise from such person's property beyond the boundaries of his property lines in excess of the noise levels set forth in Section 5, except in those incidences provided for in Section 8 and Section 9.

4. Noise level measurement procedures.

Measurements shall be taken at a point that is located at least one foot beyond the boundary of the emitter's property line within the premises of the complaining receptor. 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.

5. Noise level standards.

No person shall emit noise exceeding 55 dB, except in those incidences provided for in Section 8 and Section 9 of this chapter

6. Administration and enforcement.

The Chief of Police shall be responsible for enforcing the provisions of this chapter upon the complaint of any person and shall, upon such complaint, carry out the intent of this chapter. Upon receiving the first complaint, the police shall make the required sound level reading. If the sound level exceeds the standards enumerated in Section 5, a verbal warning shall be given to the emitter. If such noise does not cease, and upon receiving a second complaint, the police shall follow the procedures as set forth in Section 7. Notwithstanding that enforcement of this chapter shall be initiated by such complaint, no signed complaint shall be required by the Police Department to enforce or administer any of the provisions of this chapter.

7. Penalties for offenses.

Any person found in violation of the provisions of this chapter shall be given an infraction notice which incorporates a fine of \$1000.00 for each offense. Each minute that the offender remains in violation of this chapter shall constitute a separate offense. Failure to pay the fine in the time prescribed in the infraction notice will result in the issuance of a summons to appear in Superior Court.

8. Exceptions.

The noise level standards defined in Section 5 shall not apply to any noise emitted by 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 systems used in emergency situations; provided, however, that burglar or fire alarms not terminating within 30 minutes after being activated shall be unlawful.³
- D. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.

9. Exemptions.

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

- A. Noise created as a result of or relating to an emergency.
- B. Noise created by construction equipment, lawn care equipment, or snow-removal equipment during daytime hours, provided that noise discharged from exhaust is adequately muffled to prevent loud and/or explosive noises therefrom.
- C. Noise created by certificated aircraft operating under the control of the Federal Aviation Administration.
- D. Noise created as a result of or relating to maintenance and repairs conducted by public utilities.
- E. Noise generated from swimming pool pumps, air-conditioning systems, and heating systems which are in good working order and which meet the specifications accepted by federal, state and Town agencies designated to govern their installation and standards of performance

Reply To Noise Ordinance Inquiry
Morris Ordinance Commission
December 2021

Per our phone conversation on Monday, on behalf of the Morris Ordinance Committee, below are the main questions we would like to address with Atty. Rybak at our December meeting.

1. What are the allowable parameters for a noise ordinance, especially for towns of similar size and character as Morris?

Gen. Stat. 22a-73 governs local noise ordinances. Any municipality may adopt, amend and enforce a noise control ordinance which may include the following:

- (1) Noise levels which will not be exceeded in specified zones or other designated areas;
- (2) designation of a noise control officer and the designation of an existing board or commission, or the establishment of a new board or commission to direct such program;
- (3) implementation procedures of such program and the relation of such program to other plans within the jurisdiction of the municipality;
- (4) procedures for assuring compliance with state and federal noise regulations;
- (5) noise level restrictions applicable to construction activities, including limitation on on-site hours of operation

DEEP must approve the ordinance before it can become effective. This is generally done in a two-step process: the final draft of the ordinance is sent to DEEP for review and comment. DEEP may accept the ordinance or call for changes. If need be, the ordinance is modified by the Committee and then sent for PZC, BoS and Town meeting approval. The Town meeting will accept, amend, or reject the ordinance. Then what the Town Meeting approves is sent for final approval to DEEP. DEEP would generally approve if the ordinance is the same as what they OK'd before. If the Town Meeting makes changes, DEEP may not approve.

2. What have the courts allowed in connection with noise ordinances?

The courts would require DEEP approval of any ordinance, as noted above. (*Lime Rock Park, LLC v. Plan. & Zoning Comm'n of Town of Salisbury*, 335 Conn. 606 (2020)). The courts will also require that the ordinance substantially conform to the state-wide noise control plan, which is at Gen. State. 22a-69. This contains a long list of requirements and exceptions as regulations.

The courts have ruled that the 22a-67 *et seq.*, including 22a-69 and 22a-73, form the noise pollution control plan for the state and if you do a noise ordinance, you have to use and comply with those particular statutes. (*Berlin Batting Cages, Inc. v. Plan. & Zoning Comm'n of Town of Berlin*, 76 Conn. App. 199, 218 (2003)).

The courts also would be skeptical of an ordinance that denies all use of a class of properties such that the property is effectively rendered useless. For example, exceptions often appear for lawn mowers and snow removal equipment during certain hours, which serves basic access and safety purposes on the property. This is a very unlikely scenario because the ordinance would have to be so strict that it forms a denial of all economically viable private property uses (*Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)).

It is safest to use as a model an ordinance already approved by DEEP that is effective in another town. We have included a couple of ordinances from other towns that have been approved by DEEP. DEEP also keeps a database of approved ordinances in other towns here: <https://portal.ct.gov/DEEP/Air/Planning/Noise-Control>

3. Does Atty. Rybak have any suggestions as to language (what works and what doesn't)?

We suggest here starting with an ordinance already approved by DEEP (see <https://portal.ct.gov/DEEP/Air/Planning/Noise-Control>) that the Commission particularly likes. Ordinances follow different formats, and some are simpler than others. But starting with something we know DEEP has already approved is a good beginning point.

The ordinance will need some sort of definitions section to address the technical terms used in the ordinance. It will also have to define each noise receptor zone (e.g., residential, commercial, industrial, etc.). You will probably want to crib definitions from your zoning regulation definitions and classifications for residential, commercial, and industrial areas.

4. How detailed should the ordinance be?

The noise ordinance must be relatively detailed, at least compared to many other ordinances in a small town. The ordinance should have a list of definitions for key terms in the ordinance, specific limits for received noise based on zone, and then a relatively long list of exceptions to the noise limits. DEEP will review the ordinance, and in our experience, the state tends to favor more specific over more general terms, definitions, and requirements in the ordinance. Also, given that the penalty for violation is a fine, the courts will require some specificity because a penalty attaches. Attached are a couple samples, and more are available on the DEEP website listed above.

5. According to most ordinances, sound must be contained on the emitting property. In the absence of a sound meter, how can that be determined and how far off the property should the sound be measured?

With most noise ordinances, measurement is going to be taken at the edge of a neighboring property. This is usually where the complaints emerge, and far-off properties usually have a much lesser degree of noise receipt.

It's very difficult to totally contain noise to the emitting property such that there is no noise at the adjoining property, and in any event, that appears to go beyond the state noise pollution control plan.

The meter comes in to show what the level of noise pollution reaching the adjoining property is and compare it to the applicable standard set down in the ordinance. This is where the various limits based on zoning come into play. We generally look to the zone of the *receiving property* (not the emitting property) for what the standard is in a particular case. For example, if the emitting property is commercial but the neighbor receiving the noise is residential, then we use the residential standard.

What often happens is a complaint of excessive noise comes from a neighbor, then the operator and machine are set up at the boundary of the complainant's property and the noise is measured. The operator has to be trained and the machine calibrated. However, the noise ordinance can (and should) stipulate that enforcement can take place *with or without complaint*.

6. Who is qualified to measure and enforce noise levels?

The Noise Ordinance must specify who is measuring and enforcing. In larger towns and cities, it might be the police department (e.g., Torrington uses its police department to enforce with or without complaint). In a smaller town there might be a town employee trained in the use of the machine, and that person is the noise enforcement officer. (Bethlehem's does it that way, though lacks zoning). Gen. State. 22a-73 would also permit the formation of a noise control commission, though a full commission may not be needed in a small town.

The noise enforcement officer, whether it's the ZEO, or another officer, would report to a the noise enforcement commission, BoS, or P&Z. I recommend that your Committee also discuss this with other nearby municipalities that have noise ordinances. They may give you some idea as to what they are doing as to enforcement practices.

7. There are apps for iPhones that comply with NIOSH and OSHA standards... would these be acceptable?

I am not aware of that. My impression is that you still need the special, calibrated machine and the trained operator – that it's not just any town employee with an iPhone there. This is something to take up with DEEP's noise ordinance expert (we dealt with Paul Kritzer at DEEP when we did Bethlehem's ordinance). Whatever the device and training, it needs to comply with the state-level control plan and have DEEP approval under 22a-73.

8. Should we differentiate between Commercial for profit Concerts operating on a weekly schedule, to the occasional entertainment by amateur musicians, outside parties, etc.

No, it is safer to avoid adding special conditions like this. Generally, what is done is that the acceptable noise level is determined by the zoning designation of the *receiving property*. The state-level plan created by the statutes, and therefore the local ordinances, generally focus on noise a form of pollution received by a property.

Also, adding something like this to the ordinance introduces a new variable in that you would have to decide how often is "too often" and thereby invoke the stricter noise standard – weekly; twice monthly; once monthly; donations versus admission fees; etc. And then what if a previously commercial venue starts calling the fees "donations" to get around this, etc.? I think it safer to stick to the path set down by previous noise ordinances in other small towns and the DEEP program, which is to say, stick to the zoning designation of the receiving property in each case.

ORDINANCE REGARDING NOISE

Beacon Falls

(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

SECTION 1: PURPOSE: It is recognized that people within the Town of Beacon Falls have a right to and should be ensured an environment free from excessive sound, vibration and other activities that may jeopardize their health, safety or welfare or degrade the quality of life. This Ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the residents of the Town of Beacon Falls.

SECTION 2: CONSTRUCTION ACTIVITIES. No person, firm or corporation, other than a homeowner shall engage in the erection (including excavation) demolition, alteration or repair or any building, or the excavation of streets and highways, nor in the operation of trucks, tractors, bulldozers, pay loaders, compressors or other heavy equipment other than between the hours of 7:00 A.M. and 8:00 P.M. Monday through Saturday, with no activity whatsoever allowed on Sundays and legal holidays. Reference Connecticut General Statutes (CGS) – 22a-73(b)(5).

SECTION 3: 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 these Ordinances as amended from time to time and applies to adjacent residential, commercial or industrial zones.
- b. Noise generated by engine powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 A.M. and 9:00 P.M. provided that noise discharged from exhausts is adequately muffled to prevent and/or explosive noises therefrom.
- c. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in the decibel levels of this Ordinance.

SECTION 4. NOISE LEVEL MEASUREMENT PROCEDURES

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

- (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 performance standards as defined in the section captioned "Noise levels" as amended from time to time;
- (3) The general steps listed below shall be followed when preparing to take sound-level measurements;

ORDINANCE REGARDING NOISE

(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

- (i) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
- (ii) The sound-level meter shall be calibrated before and after each set of measurements;
- (iii) 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;
- (iv) 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; and
- (v) 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.

Emitter's Zone:

Residential

Receptor's Zone: Maximum Level:

Industrial..... 62 dBA
Commercial..... 55 dBA
Residential/Day..... 55 dBA
Residential/Night..... 45dBA

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

Emitter's Zone:

Commercial

Receptor's Zone: Maximum Level:

Industrial..... 62 dBA
Commercial..... 62 dBA
Residential/Day..... 55 dBA
Residential/Night..... 45 dBA

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

ORDINANCE REGARDING NOISE

(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

Emitter's Zone:

Industrial

Receptor's Zone: Maximum Level:

Industrial..... 70 dBA
Commercial.....66 dBA
Residential/Day..... 61 dBA
Residential/Night.....51dBA

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

High background noise levels and impulse noise.

- (a) If background noise levels caused by sources not subject to these regulations exceed the standards contained herein as amended from time to time, a source shall be considered to cause excessive noise if its emission exceeds the background noise levels by five (5) decibels, provided that no source subject to this article shall emit noise in excess of eighty (80) decibels at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter as amended from time to time.
- (b) No person shall cause or allow the emission of impulse noise in excess of eighty (80) decibels peak sound-pressure during the nighttime to any residential noise zone.
- (c) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound-pressure level at any time in any zone.

Exclusions.

The above restrictions of sound 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 fifteen (15) 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.

ORDINANCE REGARDING NOISE

(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

However, the owner of an alarm mechanism will not be held liable if it is activated without his/her fault or negligence;

- (4) Warning devices required by Occupational Safety and Health Administration or other State or Federal safety regulations; and
- (5) Farming equipment or farming activity.

SECTION 5: ENFORCEMENT: The Chief of Police or his/her designee shall enforce the provisions of this Ordinance. The Police Department or its members may inspect private premises and shall make all reasonable efforts to prevent violations of this Ordinance.

SECTION 6: CIVIL REMEDIES: This Ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

SECTION 7: PENALTIES: Any person who violates the provisions of this Ordinance shall be fined not more than **\$100 per violation**, the maximum dollar amount permitted by the Connecticut General Statutes. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

SECTION 8: DEFINITIONS. As used in this Ordinance, the word person includes, without limitation, any individual, corporation, firm, partnership or other business entity.

SECTION 9: SEVERABILITY. Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and that the remainder of this Ordinance shall remain valid notwithstanding such declaration.

SECTION 10: In the event that any provisions of this Ordinance is inconsistent with any provision of any regulation, resolution or Ordinance previously enacted, the provisions of this Ordinance shall take precedence.

SECTION 11: RECREATIONAL VEHICLE NOISE – TOWN ORDINANCE

No person shall create or cause to be created any unreasonable loud or disturbing noise due to the operation of a recreational vehicle in the Town of Beacon Falls.

Recreational vehicle noise shall be deemed to be loud, disturbing, or excessive and a violation of this Ordinance when the noise so generated

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(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

the noise levels standards set forth in Connecticut General Statutes § 14-80 (a) and in any circumstances where C. G.S. § 14-80(a) does not apply.

- (a) For the purpose of determining compliance with the provisions of This Ordinance, the Chief of Police or his/her designated representative is hereby authorized to make inspections of all noise to determine the quantity and character of noise as it is experienced at receptor's property. Should any inspection or measurement be required to be taken during the hours of the day or night which cause the Police Department to incur expenses for overtime hours paid to any employee and such measurements of inspections indicate a violation of this Ordinance, the violator shall pay the Town of Beacon Falls for such expenses for overtime hours for said employee or employees in addition to any penalty provided herein.
- (b) 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 Ordinance.
- (c) The Police Department under the direction of the Chief of Police shall be responsible for investigating complaints of excessive noise, determining whether violations may have occurred; and making acoustic measurements when necessary to determine that a violation has in fact occurred under the provisions of this Ordinance.

Recreational Vehicles shall also be in violation of this Ordinance if operated within premises within fifty (50) feet of the property line.

Violation and Penalties

- (a) Any person in violation of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed seventy five dollars (\$75.00).
- (b) In lieu of arrest and issuance of a summons, a Police Officer may serve upon a violator an infraction notice, which shall be known as a noise ticket. Payment of the fine prescribed

ORDINANCE REGARDING NOISE

(Revision – June 2013 – Add Recreational Vehicle Noise to Noise Ordinance)

by such noise ticket within the limit specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Fines shall be levied in the following amounts:

- (1) Initial Violation: Fifty dollars (\$50.00) fine.
 - (2) Second Violation: Seventy five dollars (\$75.00) fine.
 - (3) Third Violation: One hundred dollar (\$100.00) Fine.
- (c) Each day on which a violation occurs or continues to occur shall be considered a separate violation of this Ordinance.

Please refer to Section 4 of this Ordinance.

This Ordinance passed at a duly scheduled Town Meeting held February 18, 1997.

A summary of the foregoing Ordinance was published April 3, 1997 in the Connecticut Post and the Waterbury Republican, both papers having a substantial circulation in the Town of Beacon Falls.

The effective date of this Ordinance is April 18, 1997.

Public Hearing held on: May 7, 2007
2nd Public Hearing held on: November 26, 2007
Town Meeting held on: December 10, 2007
This Ordinance becomes effective on : January 20, 2008

REVISION TO ORDINANCE – ADDITION OF RECREATIONAL VEHICLE NOISE - June 2013

Public Hearing Held on: June 10, 2013
Town Meeting Held on: June 19, 2013
Revision to Ordinance Published on: July 15, 2013
This Ordinance Becomes Effective: July 31, 2013

East Lyme

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-of-way, all road right-of-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) micronewtons 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:		Non Residential:	
	Day	Night	Day	Night
Residential Zone Emitter	55 dBA	45 dBA	55 dBA	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: _____

Fairfield

Chapter 78

NOISE

GENERAL REFERENCES

Alarms producing exterior audible
sound — See Ch. 45, § 45-5.

§ 78-1. Legislative intent.

Government is instituted to protect life, liberty and property. Loud, excessive and unreasonable noise during the nighttime hours is an interference with a person's right to the use and enjoyment of his property, especially in residential areas where human beings sleep or areas where serenity and tranquillity are essential to the intended use of the land. The purpose of this chapter is to provide an objective standard and procedure for enforcing property rights.

§ 78-2. Definitions.

As used in this chapter, the following items shall have the meanings indicated:

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.

BUSINESS DISTRICT — Any business district, including Business District No. 1, Business District No. 2, Business District No. 3, Designed Business District No. 1, Designed Business District No. 2, Designed Business District No. 3 and Designed Business District No. 4, as defined in the Zoning Regulations of the Town of Fairfield.

DECIBEL — A logarithmic unit of measure in measuring magnitudes of sound. The symbol is "dB."

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

EMITTER — A person who creates, causes to be created or allows the noise.

IMPULSE NOISE — Sound of short duration (generally less than one second) with an abrupt onset and rapid decay.

INDUSTRIAL DISTRICT — Any industrial district, including Industrial District No. 1, Industrial District No. 2, Designed Industrial District No. 1, Designed Industrial District No. 2 and Designed Research District, as defined in the Zoning Regulations of the Town of Fairfield.

MOTOR VEHICLE — Shall be defined as per Section 14-1(26) of the Connecticut General Statutes (Revision of 1958, as amended).¹

NIGHTTIME HOURS[Amended 9-25-2017] —

- A. The hours between 10:00 p.m. and 7:00 a.m., Sunday night through Friday morning (weekday schedule); and the hours between 11:00 p.m. and 8:00 a.m., Friday night through Sunday morning (weekend schedule).

Weekday Schedule:

10:00 p.m. Sunday through 7:00 a.m. on Monday
10:00 p.m. Monday through 7:00 a.m. on Tuesday
10:00 p.m. Tuesday through 7:00 a.m. on Wednesday
10:00 p.m. Wednesday through 7:00 a.m. on Thursday
10:00 p.m. Thursday through 7:00 a.m. on Friday

Weekend Schedule:

11:00 p.m. Friday through 8:00 a.m. on Saturday
11:00 p.m. Saturday through 8:00 a.m. on Sunday

- B. During any state or national holiday, the weekend schedule will be in effect the night before the holiday through the morning of the holiday.

NOISE — Any sound, the intensity of which exceeds the standards set forth in § 78-5 of this chapter.

NOISE LEVEL — The sound pressure level, as measured with a sound level meter.

PERSON — Any individual, including the singular and plural, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political administrative subdivision of the state or on 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. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way and waters of the state.

PROPERTY LINE — That real or imaginary line along the ground surface and its vertical extension which:

- A. Separates real property owned or controlled by another person; and
B. Separates real property from the public right-of-way.

RECEPTOR — The person who receives the noise impact.

RESIDENTIAL DISTRICT — Any residential district, including Residential Districts AAA, AA, R-3, R-2, A, B, C, Designed Residence District No. 1 and Designed Residence District No. 2, as defined in the Zoning Regulations of

1. Editor's Note: See now C.G.S. § 14-1(54).

the Town of Fairfield, and all uses permitted therewith either as a right or as a special use.

SOUND — The 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 the 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 (TYPE s2A).

§ 78-3. Excessive noise prohibited. [Amended 9-25-2017]

It shall be unlawful for any person to emit or cause to be emitted any noise from such person's property beyond the boundaries of his property lines in excess of the noise levels set forth in § 78-5 during the nighttime hours as defined in § 78-2, except in those incidences provided for in §§ 78-8 and 78-9.

§ 78-4. Noise level measurement procedures.

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

- A. Instruments used to determine noise levels shall conform, as a minimum, to the operational specifications of the American National Standards Institute for sound level meters (Type s2A), maintained in calibration and good working order, and instrument manufacturer's instructions for use of the instruments shall be followed.
- B. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.
- C. Measurements shall be taken at a point that is located at least one foot beyond the boundary of the emitter's property line within the premises of the complaining receptor. 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.

§ 78-5. Noise level standards.

- A. No person shall emit noise exceeding the levels stated herein during nighttime hours, except in those incidences provided for in §§ 78-8 and 78-9 of this chapter:

Zone in Which Emitter is Located	Zone in Which Receptor is Located		
	Industrial	Business	Residential
Industrial	70 dBA	66 dBA	51 dBA
Business	62 dBA	62 dBA	45 dBA
Residential	62 dBA	55 dBA	45 dBA

- B. Background noise and impulse noise. In those individual cases where the ambient or background noise levels caused by sources not subject to this chapter exceed the standards contained herein, a source (impulse or sustained) 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 chapter shall emit in excess of 80 dBA at any time, with the exceptions of those sources referenced in Subsection C, and provided that this subsection shall not be interpreted as decreasing the noise level standards of § 78-5 of this chapter.
- C. All motor vehicles operated within the limits of the Town of Fairfield 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, Sections 14-80a-1a through 14-80a-10a, Maximum Permissible Noise Levels for Vehicles.²

§ 78-6. Administration and enforcement.

The Chief of Police shall be responsible for enforcing the provisions of this chapter upon the complaint of any person and shall, upon such complaint, carry out the intent of this chapter as specified in § 78-3. Upon receiving the first complaint, the police shall make the required sound level reading. If the sound level exceeds the standards enumerated in § 78-5, a verbal warning shall be given to the emitter. If such noise does not cease, and upon receiving a second complaint, the police shall follow the procedures as set forth in § 78-7. Notwithstanding that enforcement of this chapter shall be initiated by such complaint, no signed complaint shall be required by the Police Department to enforce or administer any of the provisions of this chapter.

§ 78-7. Penalties for offenses.

Any person found in violation of the provisions of this chapter shall be given an infraction notice which incorporates a fine of \$50 for the first offense and \$90 for each additional offense within a twenty-four-hour period. Failure to pay the fine in the time prescribed in the infraction notice will result in the issuance of a summons to appear in Superior Court.

2. Editor's Note: See now C.G.S. § 14-80a, Maximum noise levels.

§ 78-8. Exceptions.

The noise level standards defined in § 78-5 shall not apply to any noise emitted by 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 systems used in emergency situations; provided, however, that burglar or fire alarms not terminating within 30 minutes after being activated shall be unlawful.³
- D. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.

§ 78-9. Exemptions.

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

- A. Noise created as a result of or relating to an emergency.
- B. Noise created by snow-removal equipment.
- C. Noise created by certificated aircraft operating under the control of the Federal Aviation Administration.
- D. Noise created as a result of or relating to maintenance and repairs conducted by public utilities.
- E. Noise generated from swimming pool pumps, air-conditioning systems and heating systems which are in good working order and which meet the specifications accepted by federal, state and Town agencies designated to govern their installation and standards of performance.
- F. Noise created by public celebrations and on-site recreational or sporting activities which are sanctioned by the State of Connecticut or the Town of Fairfield.
- G. Any person who owns or operates any stationary noise source granted a variance pursuant to Section 22a-69-7.1 of the Regulations of Connecticut State Agencies shall be exempt from provisions of this chapter by said variance. Any person seeking a variance pursuant to Section 22a-69-7.1 of the Regulations of Connecticut State Agencies shall not be subject to the provisions of this chapter while the variance application is pending.

3. Editor's Note: See Ch. 45, Alarms.

§ 78-10. Existing noise sources.

Existing noise sources pursuant to Section 22a-69-3.7 of the Regulations of Connecticut State Agencies shall be entitled to the allowances contained in said section.

Killingly

**PROPOSED NOISE ORDINANCE AMENDING THE CODE OF ORDINANCES,
CHAPTER 12.5, BY ADDING ARTICLE V, SECTIONS 120-131**

Sec. 12.5-120. Declaration of policy

It is recognized that people have a right to and should be ensured an environment free from excessive noise or sound and vibration that may jeopardize their health, safety or welfare or degrade the quality of their lives. 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.

Sec. 12.5-121. Definitions

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

ANSI. The American National Standards Institute or its successor body. Any ANSI standard referred to in this ordinance shall be deemed to incorporate further revisions by reference.

Background noise shall mean 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 ninety per cent (90%) of the time (L_{90}) in which the measurement is taken.

Business zone . Those areas so designated for commercial use under the zoning regulations of the town, including the Business Park District.

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.

Day-time hours shall mean 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 shall mean a unit of measurement of the sound level, the symbol for which is dB.

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

Excessive noise shall mean any sound, the intensity of which exceeds the standards set forth in section 12.5-125 of this chapter.

Impulse noise shall mean sound of short duration, usually less than one (1) second, with an abrupt onset and rapid delay, the level of which is measured with a sound-level meter, which shall conform with ANSI S2.7-1986 (R1993).

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

Industrial zone shall mean those areas so designated under the zoning regulations of the town, including the Mixed Use Interchange district

L₉₀ shall mean the A-weighted sound pressure level exceeded ninety per cent (90%) of the time period during which measurement was made.

Motor vehicle shall mean a vehicle as defined in Connecticut General Statutes §14-1(47), Revision of 1958, as amended.

Nighttime hours shall mean 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 shall mean 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 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.

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

Property maintenance equipment shall mean 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 shall mean 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 shall mean all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

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

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 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 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 0.00002 Newtons per square meter (N/M²) or twenty (20) microPascals, expressed in decibel (dB) units.

Town manager shall mean the duly appointed town manager of the town or his or her designee.

Sec. 12.5-122. Exclusions

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

- (a) Natural phenomena.
- (b) The unamplified sound made by any wild or domestic animal.
- (c) A bell or chime from any building clock, school or church.
- (d) A public emergency sound signal.
- (e) Warning devices required by OSHA or other state or federal safety regulations.
- (f) Farming equipment or farming activity.
- (g) An emergency.

Sec. 12.5-123. Exemptions

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

- (a) Noise generated by the operation of engine-powered or motor-driven lawn care or maintenance equipment during daytime hours provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises there from.
- (b) Noise generated by any construction equipment operated during day-time hours.
- (c) 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.
- (d) 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.
- (e) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.
- (f) 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 (10) minutes when such alarm is attached to a vehicle or thirty (30) minutes when attached to any building or structure.

- (g) Noise created by public facility maintenance during day-time hours.
- (h) Noise that originates at airports that is directly caused by aircraft flight operations specifically preempted by the Federal Aviation Administration.
- (i) Noise created by snow removal equipment at any time 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.

Sec. 12.5-124. Noise level measurement procedures

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

- (a) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.
- (b) Instruments used to determine sound level measurements shall be sound level meters as defined in this chapter.
- (c) The following steps shall be taken 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) Measurements to determine compliance with Section 12.5-125 of this chapter, in those cases where a receptor is an abutter to the emitter, shall be taken at a point that is located about 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 12.5-125 of this chapter shall be taken at a point that is located about one foot within the boundary of the receptor's premises.
 - (3) 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.
- (d) 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.
- (e) The Director of Planning and 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 chapter and to assist potential emitters in their efforts to comply with the standards set forth herein.

Sec. 12.5-125. 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 chapter.

(b) *Noise level standards.* No person shall emit or cause to be emitted noise exceeding the levels stated herein. Levels emitted in excess of the values listed below shall be considered excessive noise.

ZONE IN WHICH RECEPTOR IS LOCATED				
Zone in Which Emitter is locate:	Industrial (dBA)	Business (Commercial) (dBA)	Residential Day-time hours (dBA)	Residential night-time hours (dBA)
Industrial	70	66	61	51
Business (Commercial)	62	62	55	45
Residential	62	55	55	45

Where multiple uses exist within a given Zone District, the least restrictive land use category for the Emitter and Receptor shall apply regarding the noise standards specified in Section 12.5-125 of this chapter unless provided for elsewhere in this ordinance.

(c) *Background noise 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 (5) dBA, provided that no source subject to this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this subsection shall not be interpreted as decreasing the noise level standards 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 night-time hours.
- (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.

(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 chapter shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith:

Allowable levels above standards
(dBA)
3

Time period of such levels
(minutes)
15

(e) *Existing Noise Sources.* Existing noise sources constructed between January 1, 1960 and the effective date of this ordinance shall be provided a permanent five (5) 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 (10) 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 chapter.

(g) *Existing state law.* Nothing in this chapter 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.

Sec. 12.5-126. Enforcement

Violations of this chapter shall be enforced by the Town Manager or his or her designee. The Town Manager may develop procedures consistent with this chapter, including, but not limited to: metering, training, and issuance of violation notices.

Sec. 12.5-127. Violations and penalties

- (a) Any person found to be in violation of any sections of this chapter 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 Town Manager or his or her designee shall, where appropriate, refer the person found to be in violation to the Director of Planning and 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) Enforcement of the provisions of this ordinance shall be by the town's citation and hearing procedure as contained in Section 1-10 of Killingly Code of Ordinances. The citation hearing procedure will serve as the appeals procedure.

Sec. 12.5-128. Variance

- (a) Any person residing or doing business in Killingly may apply to the town manager for a variance from one or more of the provisions of this chapter which are more

stringent than the Connecticut 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 twenty (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) The reasons for which the variance is requested, including the economic and technical justifications
 - (5) A description of noise control measures to be taken by the applicant to minimize noise and the impacts occurring there from.
 - (6) Any other information required by the town manager.
- (b) No variance from this ordinance shall be issued 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 this chapter 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 of approval, if any, or the reasons for rejection.

Sec. 12.5-129. Compliance with regulations no defense to nuisance claim

Nothing in any portion of this ordinance shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with this ordinance is not a bar to a claim of nuisance by any person. A violation of any portion of this ordinance shall not be deemed to create a nuisance per se.

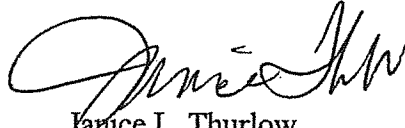
Sec. 12.5-130. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this ordinance which can be given effect without the invalid provisions or application; and to this end, the provisions of this ordinance and the various applications thereof are declared to be severable.

Sec. 12.5-131. Effective date

This ordinance shall take effect on publication according to law provided that publication shall not occur unless the Connecticut Department of Environmental Protection has approved the ordinance as required under C.G.S. 22a-73.

KILLINGLY TOWN COUNCIL

A handwritten signature in black ink, appearing to read "Janice L. Thurlow", is written over the printed name.

Janice L. Thurlow
Chairman

Dated at Killingly, Connecticut,
this 13th day of September, 2005.

CHAPTER 262

NEWTOWN NOISE CONTROL ORDINANCE

§ 262.1 PURPOSE

Pursuant to the general authority of Conn. Gen. Stat. 7-148, and the specific authority of Conn. Gen. Stat. 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 Newtown (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.

§ 262.2 DEFINITIONS

When used in this ordinance, and future revisions thereto, the terms below shall have the meanings set forth thereafter. Terms not defined below shall have the meanings set forth in the regulations of the State of Connecticut, Department of Environmental Protection. Regulations of Connecticut State Agencies ("RCSA").

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

Daytime – The hours between 7:00 a.m. and 8:59 p.m.

Decibel – A logarithmic unit of measurement used in determining magnitude of sound. The symbol is dB.

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

Emitter – Any person who creates, causes to be created or allows the Noise.

Impulse Noise - Noise of short duration (generally less than one second) of high intensity, abrupt onset and rapid decay, and often rapidly changing composition.

Motor Vehicle – As defined in Conn. Gen. Stat. 14-1 (30).

Nighttime – The hours between 9:00 p.m. and 6:59 a.m.

Noise – Any excessive sound or disturbance, the intensity of which exceeds the standards set forth in this ordinance.

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 designated dB(A) or dBA.

Non-residential zone – Those areas of the Town designated by the Zoning Regulations of the Town, as they may be from time to time amended, currently: BPO, B-1, B-2, M-1, M-2A, M-3, M-4, M-5, SDD, HCDD, SHDD, PS. Notwithstanding the forgoing, Non-residential Zone shall mean only those uses defined as Commercial or Industrial in Section V of the Newtown Zoning Regulations.

Person – Any individual, firm, partnership, association, syndicate, company, trust, corporation, agency 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 yards, lots, courts, inner yards and real properties, without buildings or improvements, owned or controlled by a Person.

Property Maintenance Equipment - 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, and the like.

Receptor – The Person who receives the Noise impact.

Residential Zone – Those areas of the Town designated by the Zoning Regulations of the Town, as they may be from time to time amended, currently: R-1/2, R-1, R-2, R-3, EH-10, CA.

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, auditory response when impinging on the ear.

Sound Level Meter – An instrument 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.

§ 262-3 NOISE LEVELS

(a) Noise Levels and Guidelines. It shall be unlawful for any Person to emit or cause to be emitted any Noise beyond the boundaries of his/her/its Premises in excess of the following Noise Levels.

RECEPTOR	
Residential	Non-residential

day / night day / night

Residential Zone emitter to:	55dBA/45dBA	55dBA/45dBA
Non-residential Zone emitter to:	55dBA/45dBA	52dBA/45dBA

Measurements shall be taken at a point that is located approximately one (1) foot from the boundary of the Emitter's Premises and/or a point that is located approximately one (1) foot within the boundary of the Receptor's Premises. The Emitter's Premises include his/her/its individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records. The limitations recited above shall be determined based upon the Receptor's property classification. Notwithstanding the above, the actual permitted use of the property shall control.

(b) Impulse Noise. In the case of Impulse Noise, the permitted Noise Levels, regardless of the type of Emitter or Receptor, shall be 100 dB DAYTIME and 80 dB NIGHTTIME.

§ 262-4 EXCLUSIONS

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

- (1) The unamplified human voice.
- (2) A bell or chime from any building clock, school or church.
- (3) Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, as authorized by subsection (d) of Section 14.80 and Section 14.1a of Chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness provided; however, that 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. 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 not be permitted hereunder.
- (4) 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.
- (5) Activities specifically licensed or sanctioned by, or under permit of the Town, including, but not limited to, municipal parades, fireworks, historical reenactments, concerts and sporting events.
- (6) Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that noise

discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

(7) Construction equipment, while engaged in Premises construction, between 7:00 a.m. and 6:00 p.m., from Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturday.

(8) State or municipally authorized and licensed drilling or blasting between 8:00 a.m. and 5:00 p.m., from Monday through Friday.

(9) FAA preempted aircraft flights.

(10) Home and commercial generators during periods of lost power.

(11) Nighttime public road maintenance and line painting.

(12) Actions necessitated by an emergency.

(13) Warning devices required by OSHA or other state or federal safety regulations.

§ 262-5 STANDARDS – INSTRUMENTS

Acoustic measurements and equipment to ascertain compliance with, or violation of, this ordinance shall be in substantial conformity with the standards and practices established by professional organizations such as the American National Standards Institute. Instruments shall be of standard design, properly calibrated and maintained for the purposes of Noise regulation. Instruments shall conform, at a minimum, to the standards of the American National Standards Institute for Sound Level Meters.

§ 262-6 VARIANCES

A Person may apply to the First Selectman for a variance from one or more of the provisions of this ordinance, provided the applicant provides the First Selectman, or his/her designated assistant, at least ten (10) days prior to the proposed activity, with the following:

- (1) The location of the proposed activity;
- (2) Time period and hours of operation;
- (3) Nature and intensity of anticipated Noise; and
- (4) Such other information which the First Selectman may reasonably deem necessary.

A variance may be granted if the First Selectman reasonably concludes that the noise levels will not endanger public health, and ordinance compliance would result in unreasonable hardship to the applicant. Notwithstanding the foregoing, no variance shall allow noise in violation of the State of Connecticut Department of Environmental Protection Regulations of Connecticut state agencies.

The First Selectman shall issue a decision, in writing, within three (3) business days of the submission of a completed application. Appeals shall be made to a committee of two (2) Selectman appointed by the First Selectman and, thence, to the State Health Department, all as provided by statutes governing health department appeals, generally.

§ 262-7 MOTOR VEHICLES

(a) All Motor Vehicles operated within the limits of the Town shall be subject to the Noise standards and Decibel levels set forth in regulations of Connecticut state agencies. Conn. Gen. Stat. 14-80-1a through 14-80a-1Ga, as the same may be from time to time amended.

(b) No Sound amplifying devices on or within Motor Vehicles shall emit Noise in excess of the Noise Level specified in this ordinance.

§ 262-8 ENFORCEMENT

(a) The Town's Police Department shall be responsible for investigating and documenting, though 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 \$60.00 for the first offense, and \$77.00 for each subsequent offense. 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 Conn. Gen. Stat. §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 § 262-3 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.

§ 262-9 SEVERABILITY

Any provision of this ordinance held to be unconstitutional or superseded by state law or regulation shall not serve to invalidate the remaining unaffected provisions hereof. No provision

of this ordinance shall serve to validate any activity otherwise prohibited by state or local law or lawfully enacted zoning regulation.

§ 262-10 EFFECTIVE DATE

This ordinance shall be effective 15 days after notice of passage is published in the Newtown Bee.

**TOWN OF TORRINGTON
NOISE ORDINANCE**

CHAPTER 145 - NOISE

Be It Hereby Ordained by the Board of Councilmen of the City of Torrington that the Code of Ordinances of the City of Torrington include the following ordinance concerning noise:

§ 145-1. - Policy.

The making, creation or maintenance of unreasonably loud, unnecessary or disturbing noises affects and is detrimental to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the Town of Torrington and this ordinance is adopted in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, peace and quiet of the Town of Torrington and the people therein.

§ 145-2. - Definitions.

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

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. In statistical terms, it is the level which is exceeded ninety (90%) percent of the time (L90) in which the measurement is taken.

Chief of police shall mean the chief of police of the Town of Torrington or a duly authorized officer subject to his/her orders.

Commercial zone shall mean all commercial and business zones, as defined in the zoning regulations of the Town of Torrington. Any use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.

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.

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

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

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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, power mowers, 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 to persons or property damage, which demands immediate action.

Emergency vehicle shall mean any motor vehicle authorized by law 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 (1) second, with an abrupt onset and rapid decay.

Industrial zone shall mean all industrial zones, as defined in the zoning regulations of the Town of Torrington. Any use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.

Loud amplification device or similar equipment shall include, but not be 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 manner that it creates noise.

Motor vehicle shall be defined in accordance with Sec. ____ of the CT General Statutes.

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

Noise shall mean any sound, the intensity of which exceeds the standards set forth in this ordinance, or that is plainly audible at a distance of one hundred (100) feet from its source.

Night shall mean 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 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.

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.

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, Corporation, LLC or other business organization. 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:

- (1) Separates real property owned or controlled by any Person or business organization from contiguous real Property owned or controlled by another Person or business organization; and
- (2) 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, including public property and cemeteries, as defined in the zoning regulations of the Town of Torrington. Any use which is nonconforming 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 shall conform, as a minimum, to the operation 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) micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

§ 145-3. - Noise level measurement procedures.

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

- (1) Where and when a sound level meter is used:
 - a. All personnel conducting sound measurements shall be trained, including but not limited to training 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 ordinance;
 - 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 (4) 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 (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her/its individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

(2) In the absence of a sound level meter, noise will be plainly audible when noise can be heard at a distance of one hundred (100) feet from its source, by a person with normal hearing.

§ 145-4. - 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 these regulations.

(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:

Residential

Receptor's zone-Maximum level:

Industrial.....62 dBA

Commercial.....55 dBA

Residential/day.....55 dBA

Residential/night.....45dBA

(2) No person in a Commercial 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:

Commercial

Receptor's zone – Maximum level:

Industrial62 dBA

Commercial62 dBA

Residential/day55 dBA

Residential/night45 dBA

(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:

Industrial

Receptor's zone – Maximum level:

Industrial 70 dBA

Commercial66 dBA

Residential/day61 dBA

Residential/night.....51 dBA

(4) Any property use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.

(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 ordinance 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 ordinance.

(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 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 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 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 between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.

(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 8:00 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 aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions;

(9) Noise created by products undergoing tests, where one (1) of the primary purposes of the test is evaluation of product noise characteristics and where practical noise control measures have been taken;

(10) Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical power, 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.

§ 145-5. - 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 injury or a traffic accident;

(2) *Advertising.* No person shall at any time use any drum, bell or other instrument or device for the purpose of attracting attention to any performance, show or sale, or to the display or advertisement of merchandise.

(3) *Motor and recreational vehicle noise.* All motor and recreational vehicles operated within the limits of the Town of Torrington shall be subject to the noise standards and decibel levels as found in CT general statutes, Title 14, Sec. 14-80a, which states in pertinent part that:

§ 145-6. - Inspections.

(a) For the purpose of determining compliance with the provisions of this ordinance, the chief of police or his/her 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 or his/her designated representative may seek from the appropriate court a search 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/her designated representative free access to any Premises, when the chief of police or his/her designated representative is acting in compliance with a warrant for inspection or 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 ordinance.

§ 145-7. - Enforcement.

(a) This ordinance shall be enforced by the Torrington Police Department which may act with or without a complaint.

§ 145-8. - Variances.

(a) Any person living or doing business in Torrington may apply to the Chief of Police for a variance from any provision of this ordinance which is 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 Chief of Police at least twenty (20) days prior to the start of the activity for which the variance is sought:

- (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.

(b) No variance from this ordinance shall be granted unless it has been demonstrated that:

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

(c) The application for a variance shall be reviewed and approved or rejected at least five (5) days prior to the start of the proposed activity. Approval or rejection shall be made in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.

(d) Failure to rule on an application within the designated time shall constitute approval of the variance.

§ 145-9. - Penalties.

The violation of any of the provisions of this ordinance shall be punished by a fine not to exceed \$100. Each day any such violation shall continue or each act in violation shall constitute a separate offense.