

## Section 195

### Noise

#### § 270-1 ~~Purpose of article.~~

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

#### § 270-2 ~~Construction activities~~Definitions.

~~A. — No person shall engage in any activity related to the erection, excavation, demolition, alteration or repair of any building, or the excavation of streets and highways, nor in the operation of trucks, tractors, bulldozers, payloaders, compressors, or other heavy equipment other than between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday, and other than between the hours of 9:00 a.m. and 6:00 p.m. on Sundays and legal holidays, except in case of urgent necessity in the interest of public safety, and then only with a permit from the director of public works, which permit may be granted for a period of not to exceed three days while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues.~~

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

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

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

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

Decibel: A unit of measurement of sound levels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~B. The Director of Public Works, in deciding whether to issue or renew any such permit shall consider the following criteria:~~

~~(1) The reasons for the requested permit as they relate to the public health and safety;~~

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- (2) ~~The requested hours for construction activities;~~
- (3) ~~The type of construction activities to take place and the type of construction equipment to be utilized;~~
- (4) ~~The noise reasonably likely to be generated from the construction activities and equipment;~~
- (5) ~~The area where the construction activities are to be performed, with consideration to residential versus commercial uses, density of population, and the number of people to be affected by the activities and noise;~~
- (6) ~~The number of days for which the permit or renewal is requested.~~

§ 270-3 ~~Mobile loudspeakers.~~Noise levels and guidelines.

~~A. No person shall use, play or operate, for any purpose whatever, any loudspeaker or sound-amplifying device including, but not limited to radios, tape decks, musical instruments, compact disc players, or public-address systems, in or attached to or on any vehicle moving or standing on any highway or public place in the Town, or in any place where the sound therefrom is cast directly upon any of the highways or public places in the Town, or in any place where the sound therefrom is cast directly upon any of the highways or public places, without first obtaining a permit from the Chief of Police or his designee; provided, however, that:~~

~~A. Permits shall not be granted for advertising or commercial use;~~

~~B. Such device shall only be operated from 9:00 a.m. to 6:00 p.m. on weekdays and from 10:00 a.m. to 5:00 p.m. on Saturdays, Sundays and legal holidays;~~

~~C. Such device shall not be operated in the vicinity of hospitals, convalescent or nursing homes or schools while in session, or churches while services are being conducted. Nothing in this article shall prohibit the use of such devices on vehicles of the Town while engaged in necessary public business, or on emergency vehicles.~~Noise zones within the Town of Winchester shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and the surrounding parcels or tracts on which noise is received, provided that any parcel whose use is lawfully nonconforming to its zone at the time this article is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of their premises in excess of the noise levels established in this section. Measurements shall be taken at a point that is located approximately one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes their individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

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

B. No person shall cause or allow the emission of impulse noise in excess of 80 decibels' peak sound pressure level during Nighttime Hours to any residential zone. No person shall cause or allow the emission of impulse noise in excess of 100 decibels' peak sounds pressure level at any time to any zone.

C. A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters as defined by this article.

§ 270-4 **Fixed loudspeakers; High Background Noise Areas**

~~No person shall use, play or operate any loudspeaker or sound amplifying device including, but not limited to radios, tape decks, musical instruments, compact disc players, or public address systems, in or attached from~~

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~~any stand, platform or any other structure or part of any structure which abuts or is adjacent to a public place or street, or to use, play or operate a loud speaker or sound amplifying device which is attached to the outside of any building or premises abutting or adjacent to a public place or street, without first obtaining a permit from the Chief of Police or his designee and paying an annual permit fee of \$100, except for public functions or emergency use. The permit obtained shall list specific days and hours of operation as determined by the Chief of Police or his designee considering the needs of the applicant and the comfort of the public. In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by five dBA, provided that no source subject to the provisions of Section 3 of this article shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels set forth in any other section of this article.~~

**§ 270-5 Residential activities, Exclusions.**

~~No person shall engage in the operation of lawn mowers, chain saws, lawn tractors or similar devices except 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 9:00 p.m. on Sunday or any legal holiday. No person shall use, play or operate any radio, phonograph, tape player, musical instruments, compact disc player, loudspeaker or other sound amplifying device at a volume which shall disturb the occupants of adjacent residences or units at any time. Maximum noise levels established in Section 3 of this article shall not apply to any noise emitted or related to:~~

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

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I. Utility maintenance, including, but not limited to, the removal of fallen trees and the installation and repair of utility wires and poles.

J. Town of Winchester construction, road repair, and tree removal operations.

K. The repair of buildings owned by the Town of Winchester.

L. Activities conducted by the Town of Winchester in a governmental capacity or by the State of Connecticut or by the federal government of the United States of America.

**§ 270-6 Enforcement. Motor vehicle noise.**

~~A. All motor vehicles operated on public roads within the limits of the Town of Winchester shall be subject to the noise standards and decibel levels act set forth by the Connecticut General Statutes, §§ 14-80 and 14-80a, and the regulations issued thereunder. The Chief of Police or his designee shall enforce the provisions of this article.~~

A.

B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 3 hereof.

~~B. Civil remedies. This article may be enforced by injunction, action for abatement, or other appropriate civil remedy. The Town may recover from such violation any and all costs and fees, including reasonable attorney fees expended by the Town in enforcing the provisions of this ordinance.~~

~~C. Criminal penalties. Every person who violates any provision of this article shall be fined not more than \$100. Each act of violation and each day a violation occurs or continues constitutes a separate offense.~~

**§ 270-7 Exemptions.**

~~The following are exempt from the provisions of this article:~~

~~A. Sanding and snow removal operations by state, municipal or private contractors;~~

~~B. Noises made by alarm systems;~~

~~C. Any public address system allowed under the Town of Winchester zoning regulations.~~

**§ 270-7.8 Severability. Enforcement and penalties.**

~~If, for any reason, any word, clause, paragraph, or subsection of this Ordinance shall be held to make the same unconstitutional or superseded by any State law or regulation, this Ordinance shall not thereby be invalidated and the remainder of the Ordinance shall continue in effect.~~

The Winchester Police Department shall enforce the provisions of this article pertaining to the measurement of noise levels and the issuance of notices of violation. Any person in violation of any section of any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$100. In lieu of arrest and issuance of a summons, the Winchester Police Department may serve upon a violator an infraction notice which shall be known as a noise ticket. Payment

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of the fine prescribed by such noise ticket within the time limit and to the address specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Each day a violation continues after the time for correction of the violation has been given in a written order, or after the issuance of a summons or infraction notice, shall constitute a continuing, separate violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred dollars (\$400) per day. In the event payment of the fine is not made and an appeal has not been taken as provided herein, the violator shall be responsible for any and all costs of collection, including attorneys' fees. The imposition of any fine hereunder shall not prevent the enforced abatement of any unlawful condition by the Town and the Town shall have the right to pursue any remedy allowed under law.

#### § 270-8 Appeal process.

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

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

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

#### § 270-9 Variances.

A. Any person living or doing business in Winchester may apply to the Chief of Police for a variance from one or more of the provisions of this Ordinance, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided the applicant supplies all of the following information to the Chief of Police at least twenty (20) days before the start of such activity:

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

B. No variance from this Ordinance shall be issued unless it has been demonstrated that:

- a. The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations;
- b. The noise levels generated by the proposed activity will not constitute a danger to the public health; and
- c. Compliance with the regulations constitutes an unreasonable hardship on the applicant;

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

~~A-D.~~ All registered businesses legally operating within the Town of Winchester at the time of the

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ordinance adoption shall be automatically granted a variance for noise-emitting equipment and machinery they possess that is strictly necessary for the operation of that business at the time that this ordinance is originally adopted. Any change in size, quantity or use of said equipment or machinery, or any change in the business' location, hours of operation, or ownership shall require that business to apply for a separate variance as outlined in § 270-9 (A).

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