

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.