

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DERBY:

NOISE CONTROL PROGRAM

Sec. 19-34. DECLARATION OF POLICY.

This ordinance is enacted pursuant to the Municipal Powers Act of the Connecticut General Statutes (C.G.S. Section 7-148(c)(7)(H)).

Excessive noise and vibration is a serious hazard to the health, welfare and quality of life of the citizens of Derby. Exposure to excessive noise can result in physiological, psychological and economic damage but can be abated through use of a substantial body of science and technology. Recognizing that each person has a right to an environment free from noise that may jeopardize that person's health, safety or welfare, the City of Derby establishes this noise regulation, pursuant to section 22a-73 of the Connecticut General Statutes.

Sec. 19-35. DEFINITIONS

For any term not defined below, the word will have the meaning set forth in the regulations of the State of Connecticut Department of Environmental Protection, Section 22a-69-1.

For the purposes of this chapter, the following words, terms and phrases shall have the following meanings, unless the context clearly indicates otherwise:

Construction shall mean the assembly, erection, substantial repair, alteration, demolition or site preparation for or of public or private rights-of-way, buildings, or other structures, utilities or property.

Daytime hours shall mean the hours between 7 a.m. to 9:59 p.m.

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

Emitter shall mean the person who creates, causes to be created or allows the noise.

Excessive noise shall mean any sound, the intensity of which exceeds the standards set forth in section 19-36 of this article.

Nighttime hours shall mean the hours between 10 p.m. to 6:59 a.m.

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.

Non-residential zone shall mean those areas so designated in the Zoning Regulations of the City of Derby as C-1, C-2, C-3, CBD, I-1, I-2 and I-3, as may be amended from time to time.

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.

Receptor shall mean the person who receives the noise impact.

Recreational vehicle shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.

Residential zone shall mean those areas so designated in the Zoning Regulations of the City of Derby as R-20, R-15, R-10, R-5, RM and P, as may be amended from time to time.

Zone of quiet shall mean the premises of Griffin Hospital (as defined in 19-19), the Derby Green (as defined in Section 19-30), places of worship, schools and schoolyards, the Derby Public Library, the Derby Neck Library and housing facilities for the elderly (currently including, but not limited to Cicia Manor, the Derby Nursing Home, Marshall Manor, Guardiano Terrace and Stygar Terrace).

Sec. 19-36. NOISE LEVELS.

(a) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of that person's premises in excess of the following noise levels:

	NON-RESIDENTIAL Receptor DAYTIME	RESIDENTIAL Receptor DAYTIME
RESIDENTIAL emitter	55 dBA	55 dBA
NON-RESIDENTIAL emitter	62 dBA	55 dBA

(b) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of that person's premises in excess of 45 dBA in a Zone of Quiet.

(c) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of that person's premises in excess of 45 dBA at night-time.

Sec. 19-37. EXCLUSIONS.

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

- (1) Natural phenomena.
- (2) A bell or chime from any building clock, school or church.
- (3) The siren or whistle of any emergency vehicle or public emergency system.
- (4) Snow removal.
- (5) Recreational activities sanctioned by the city including, but not limited to, parades, sporting events, concerts and fireworks displays.
- (6) Property maintenance equipment between 7 a.m. and one hour after sundown.

- (7) Construction equipment between 7 a.m. and one hour after sundown from Monday through Saturday and between 9 a.m. and one hour after sundown on Sunday.
- (8) Blasting equipment on weekdays between 8 a.m. and 5 p.m., provided that all required permits have been obtained from state and local authorities.
- (9) Refuse and solid waste collection between 6 a.m. and 6 p.m.

Sec. 19-38. ENFORCEMENT.

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 as set forth in the Connecticut General Statutes in sections 53a-181 and 53a-182 as they may be amended from time to time, and shall make acoustic measurements when necessary to determine that a violation has in fact occurred under the provisions of this ordinance.

Sec. 19-39. STANDARDS; INSTRUMENTS.

(a) Acoustic measurements and equipment to ascertain compliance with this chapter shall be in substantial conformity with standards and recommended practices established by professional organizations such as ANSI.

(b) Instruments used to determine noise levels shall be of standard design, maintained in calibration and good working order, and instrument manufacturer's instructions for use of the instruments shall be followed.

Sec. 19-40. MEASUREMENTS.

(a) Measurements taken to determine compliance with this chapter shall be taken at any elevation and at any point beyond the property line of the emitter and within the property line of the receptor.

(b) When taking measurements, a windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.

Sec. 19-41. VARIANCES

(a) Any person residing or doing business in the City of Derby may apply to the Board of Aldermen for a variance from one or more of the provisions of this ordinance which are more stringent than the Connecticut Department of Environmental Protection's regulations for the control of noise, provided that the applicant supplies all to the following information to the City Clerk for distribution to the Board of Aldermen at least thirty (30) days prior to the start of the activity:

- (1) The location and nature of the activity.

- (2) The time period and hours of operation of the activity.
- (3) The nature and intensity of the noise that will be generated.
- (4) Any other information required by the Board of Aldermen.

(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 ordinance constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at a regularly scheduled meeting of the Board of Aldermen. The approval or rejection shall be communicated in writing by the City Clerk to the applicant and shall state the condition of approval, if any, or the reasons for rejection.

Sec 19-42. PENALTIES

(a) Any person in violation of any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction there, shall be fined in an amount not to exceed fifty (\$50) dollars.

(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 by such noise ticket within the time 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: twenty-five (\$25) dollar fine.
- (2) Second violation: fifty (\$50) dollar fine.
- (3) Third violation: one hundred (\$100) dollar fine.
- (4) Additional violations: one hundred (\$100) dollar fine.

(c) Each day on which a violation occurs or continues shall be considered a separate violation of this ordinance.

Sec. 19-43. MOTOR AND RECREATIONAL VEHICLES

(a) All motor vehicles operated within the limits of the city 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-1a(a-1) entitled "Maximum Permissible Noise Levels For Vehicles."

(b) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this ordinance.

(c) No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this ordinance when the noise so generated exceeds the noise level standards in this section.

(d) Recreational vehicles shall also be in violation of this ordinance if operated within a premise within one hundred (100) feet of the property line.

Sec. 19-44. SEVERABILITY.

If any provision of this ordinance or the application thereof shall be held invalid or unenforceable, the remainder of this ordinance, or the application of such terms and provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each remaining term and provision hereof shall be deemed valid and be enforced to the fullest extent permitted by law.