

**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 decay, 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

<i>Zone in Which Emitter is locate:</i>	<i>Industrial (dBA)</i>	<i>Business (Commercial) (dBA)</i>	<i>Residential Day-time hours (dBA)</i>	<i>Residential night-time hours (dBA)</i>
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.

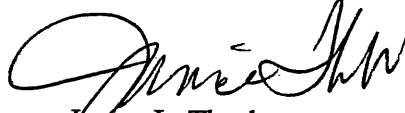
Sec. 12.5-130. Severability

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". The signature is fluid and cursive, with a large initial "J" and "T".

Janice L. Thurlow
Chairman

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