

AN ORDINANCE PROVIDING FOR THE REDUCTION AND ELIMINATION OF NOISE BY ESTABLISHING MAXIMUM NOISE LEVELS UPON AND BETWEEN PREMISES, PROHIBITING CERTAIN NOISE ACTIVITIES, AND PROVIDING FOR INSPECTION, OFFENSES AND PENALTIES IN THE TOWN OF WESTBROOK, CONNECTICUT.

Section 1. Short Title: "The Town of Westbrook Noise Control Ordinance."

Section 2. Purpose: It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or 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 citizens of Westbrook through the reduction, control, and prevention of noise.

Section 3. Definitions: The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- 3.1 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 90% of the time (L90) in which the measurement is taken.
- 3.2 BOARD OF SELECTMEN: Shall mean the Board of Selectmen of the Town of Westbrook, or a duly authorized officer subject to their orders.
- 3.3 COMMERCIAL ZONE: Shall mean Commercial District, Commercial Boating, Turnpike Interchange Commercial District, as defined in the Zoning Regulations of the Town of Westbrook and all uses associated therewith either permitted as a right or as a special use.
- 3.4 CONSTRUCTION: Shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities, or similar property.
- 3.5 CONSTRUCTION EQUIPMENT: Shall mean any equipment or device operated by fuel or electric power used in construction or demolition work.
- 3.6 DAY-TIME HOURS: 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.

- 3.7 DECIBEL: Shall mean a logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.
- 3.8 DEMOLITION: Shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
- 3.9 DOMESTIC POWER EQUIPMENT: Shall mean, 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.
- 3.10 EMERGENCY: Shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 3.11 EMERGENCY VEHICLE: Shall mean any motor vehicle authorized by the Town of Westbrook to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.
- 3.12 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.
- 3.13 IMPULSE NOISE: Shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.
- 3.14 INDUSTRIAL ZONE: Shall mean Industrial District as defined by the Zoning Regulations of the Town of Westbrook.
- 3.15 MOTOR VEHICLE: Shall be defined as per Section 14-1 (26) of the Connecticut General Statutes.
- 3.16 MUFFLER: Shall mean a device for abating sounds such as escaping gases.
- 3.17 NIGHT-TIME HOURS: 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.
- 3.18 NOISE: Shall mean any sound, the intensity of which, exceeds the standards set forth in Section 5.2 of this Ordinance.
- 3.19 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.
- 3.20 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.

- 3.21 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. The emitter's premises includes contiguous publically dedicated street and highway rights-of-way, all road rights-of-way and waters of the State.
- 3.22 PROPERTY LINE: Shall mean that real or imaginary line along the ground surface and its vertical extension which a) separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and b) separates real property from the public right-of-way.
- 3.23 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.
- 3.24 RECREATIONAL VEHICLE: Shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.
- 3.25 RESIDENTIAL ZONE: Shall mean all Residential Districts, R.R., L.R., M.L.R., M.H.R., H.R., and Commercial where used for Residential purposes, as defined in the Zoning Regulations of the Town of Westbrook and all uses associated therewith either permitted as a right or as a special use.
- 3.26 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.
- 3.27 SOUND LEVEL METER: Shall mean 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).
- 3.28 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 micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

Section 4.

Noise Level Measurement Procedures For the purpose of determining noise levels as set forth in this Ordinance, the following guidelines shall be applicable.

- 4.1 All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- 4.2 Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this Ordinance.
- 4.3 The general steps listed below shall be followed when preparing to take sound level measurements.
- a) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
 - b) The sound level meter shall be calibrated before and after each set of measurements.
 - c) 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.
 - d) 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.
 - e) Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. 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.
- 4.4 The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled Connecticut Noise Survey Data Form #101.

Section 5. Noise Levels.

5.1 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.

5.2 NOISE LEVEL STANDARDS

a) 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:

Receptor's Zone

Emitter's Zone	Industrial	Commercial	Residential/Day	Residential/Night
Residential	62 dBA	55 dBA	55 dBA	45 dBA

- b) No person in a Commercial 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:

Receptor's Zone

<u>Emitter's Zone</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential/Day</u>	<u>Residential/Night</u>
Commercial	62 dBA	62 dBA	55 dBA	45 dBA

- c) 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:

Receptor's Zone

<u>Emitter's Zone</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential/Day</u>	<u>Residential/Night</u>
Industrial	70 dBA	66 dBA	61 dBA	51 dBA

5.3 HIGH BACKGROUND NOISE LEVELS AND IMPULSE NOISE

- a) 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 5 dBA, provided that no source subject to the provisions of this ordinance shall emit noise in excess of 80 dBA at any time, and provided that this Section does not decrease the permissible levels of other Sections of this Ordinance.
- b) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime to any Residential Noise Zone.
- c) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time to any zone.

5.4 EXCLUSIONS

These levels shall not apply to 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 an emergency situation provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful.
- d) Warning devices required by OSHA or other State or Federal safety regulations.
- e) Farming equipment or farming activity.

5.5 EXEMPTIONS

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

- a) Noise generated by any construction equipment which is operated during Day-Time Hours, provided that the operation of construction equipment during Night-Time Hours shall not exceed the maximum noise levels as specified in Section 5.2.
- b) Noise created as a result of, or relating to an emergency.
- c) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during Day-Time Hours.
- d) Noise from snow removal equipment.
- e) Noise from demolition work conducted during Day-Time Hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.
- f) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
- g) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the Town, including, but not limited to, parades, sporting events, concerts, and firework displays.

- h) 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 has been obtained from local authorities.
- i) Noise created by refuse and solid waste collection, provided that the activity is conducted during Day-Time Hours.

Section 6. Prohibited Noise Activities. The following activities are prohibited:

- 6.1 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 a traffic accident.
- 6.2 TRUCK IDLING: No person shall operate an engine or any standing motor vehicle with a weight in excess of 10,000 pounds Manufacturer's Gross Vehicle Weight (GVW) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises or on a Town road next to a residential premises.
- 6.3 EXHAUST DISCHARGE: No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge be through a muffler, as defined by Section 3.16 of this Ordinance or through an apparatus providing equal noise reduction.

Section 7 Motor Vehicle Noise.

- 7.1 All motor vehicles operated within the limits of the Town of Westbrook shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut State Statutes.
- 7.2 No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 5.2.

Section 8 Recreational Vehicle Noise.

- 8.1 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 set forth in Section 5.2.

Section 9

Inspections.

- 9.1 For the purpose of determining compliance with the provisions of this Ordinance, the Board of Selectmen or their designated representative are 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.
- 9.2 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.
- 9.3 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.
- 9.4 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.

Section 10.

Penalties.

- 10.1 Any person in violation of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed twenty-five (\$25) dollars. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred (\$400) dollars per day.

Section 11.

Variance and Contracts.

- 11.1 Variances.

Any person living or doing business in Westbrook may apply to the Board of Selectmen for a variance from one or more of the provisions of the Ordinance, which are more stringent than the Connecticut Department of Environmental

regulations for the control of noise, provided that the applicant supplies 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 activity.
 - 2) The time period and hours of operation of said activity.
 - 3) The nature and intensity of the noise that will be generated, and,
 - 4) Any other information required by the Board of Selectmen.
- b) No variance from these regulations 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, and
 - 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 of approval, if any, or the reasons for rejection.
- d) Failure to rule on the application in the designated time shall constitute approval of the variance.

11.2

Contracts. Any written agreement, purchase order or contract whereby the Town of Westbrook is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this Ordinance will be operated, constructed, conducted or manufactured without violating the provisions of this Ordinance.

Section 12.

Severability. All provisions of the Zoning Regulations of the Town of Westbrook 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 are hereby repealed, it being understood that said Statutes and Code shall take precedence over this Ordinance.

Section 13.

Effective Date. This Ordinance shall become effective fifteen (15) days after publication in a newspaper having a circulation in Westbrook.