

Section 195

Noise

§ 270-1 Purpose.

It is 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 Definitions.

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.

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.

§ 270-3 Noise levels and guidelines.

A. 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.

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

- 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 sound 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 High Background Noise Areas

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 Exclusions.

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.
- 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.
- M. Properties that have a pending noise variance application under Section 9 hereof.

§ 270-6 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.

- 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.

§ 270-7 Enforcement and penalties.

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 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.
- D. A variance granted to a business shall be considered void in the event that business changes the size, quantity, location, or use of the noise-emitting equipment or machinery that they possess, or in the event that the business changes their location or hours of operation.
- E. In the event a variance is voided, nothing in this ordinance shall prohibit a resident or business owner from applying for a new variance. In the event a variance application is denied, the owner of the property in question may not apply for a new variance for that property for ninety (90) days following the date of denial and, in the new variance application, must detail the substantive changes that have been made to reduce noise levels at that property since the previous application was submitted.