

Chapter 101: Noise

[HISTORY: Adopted by the Annual Town Meeting of the Town of Nantucket 4-6-1982 by Art. 31, approved 6-23-1982.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 55.

Peace and good order — See Ch. 105.

[1] *Editor's Note: This bylaw was adopted in addition to a noise bylaw adopted 3-18-1969 ATM by Art. 97, which bylaw is on file in the Clerk's office.*

§ 101-1 Prohibited activities; violations and penalties.

[Amended 11-13-1990 STM by Art. 31, approved 3-19-1991]

- A. It shall be unlawful for any person or persons, between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15th and September 15th in each year), occupying or having charge of any building, boat, vehicle, premises or any part thereof; the owner, the owner's agent or other legally responsible person or persons of any building, boat, vehicle, premises or any part thereof in the Town of Nantucket other than as specifically licensed by the Board of Selectmen, to create, assist in creating, cause or suffer or allow any excessive, unnecessary, loud or unusual noise which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health or safety of others by the operation of any radio, phonograph or other mechanical sound device or instrument or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid or the making of loud outcries, exclamations, other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise where the noise is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section. Any person violating this section shall be punished by a fine of not more than \$200 for each offense. Each such act which constitutes a violation of this section, which either continues or is repeated more than 30 minutes after the issuance of a warning to cease said activities, shall be considered a separate offense and shall be prosecuted as a separate offense.

[Amended 5-5-1992 ATM by Art. 72, approved 8-3-1992; 4-4-2006 ATM by Art. 61, approved 8-2-2006; 4-11-2007 ATM by Art. 54, approved 1-28-2008]

- B. It shall be unlawful for any person or persons, between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15th and September 15th in each year), being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof in the Town of Nantucket, other than as specifically licensed by the Board of Selectmen, to create, assist in creating, cause or suffer or allow any excessive, unnecessary, loud or unusual noise which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health or safety of others by the operation of any radio, phonograph or other mechanical sound device or instrument or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid or the making of loud outcries, exclamations, other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise where the noise is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section.

[Amended 5-5-1992 ATM by Art. 72, approved 8-3-1992; 4-4-2006 ATM by Art. 61, approved 8-2-2006; 4-11-2007 ATM by Art. 54, approved 1-28-2008]

- C. Any person shall be deemed in violation of § 101-1, who shall make or aid in, cause or suffer or countenance or assist in the making of the aforesaid and described improper noises, disturbance, breach of the peace or a diversion tending to a breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat or conveyance or any part thereof during a violation of § 101-1 shall constitute prima facie evidence that they are a countenancer to such violation. Any person violating this section shall be punished by a fine of not more than \$200 for each offense. Each such act which constitutes a violation of this section, which either continues or is repeated more than 30 minutes after the issuance of a warning to cease said activities, shall be considered a separate offense and shall be prosecuted as a separate offense.

§ 101-1.1 Procedure upon violation.

[Added 11-13-1990 STM by Art. 31, approved 3-19-1991]

- A. It shall be deemed a breach of the peace and it shall be the duty of any police officer of the Town to order any person or persons so acting as to violate the provisions of § 101-1 of this chapter to cease any prohibited activities which are specified in § 101-1 and, if the person or persons so ordered do not forthwith obey, to remove such person or persons or to arrest and/or cause such person or persons to be brought before the Trial Court of the Commonwealth District Court, Nantucket Division, upon a complaint made for a violation of the provisions of § 101-1.
- B. If the violation occurs on the premises of rental property, the owner and/or his agent of said property must be notified in writing by certified mail that a violation of § 101-1 has occurred on said rental property and that a complaint for violation of said section may be taken against him if said property owner and/or his agent fails to mitigate the activities of the person or persons who have rented said property.
- C. It shall be a defense to any violation of § 101-1 of this chapter that the noise is generated from a private dwelling with the express consent of the owner and that the noise is not clearly audible at any real property boundary of said dwelling.

[Added 4-10-2000 ATM by Art. 63, approved 8-2-2000]

§ 101-2 Noises prohibited; exemptions.

- A. Use districts. It shall also be unlawful to project a sound or noise, excluding noise emanating from cars, trucks or other vehicles, from one property into another within the boundary of a use district, which noise exceeds the limiting noise spectra set forth in Table I below.^[1] Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of the district into which the noise is projected.

[Amended 4-30-2003 ATM by Art. 56, approved 8-27-2003^[2]]

[1] *Editor's Note: See § 101-4.*

[2] *Editor's Note: This article provided that it shall become effective 9-2-2003.*

- B. Loading and unloading. It shall be unlawful to load, unload, open, close or otherwise handle boxes, crates, containers, building materials, trash cans, dumpsters or similar objects between the hours of 10:00 p.m. and 6:00 a.m. so as to project sound across a real property line, except as exempted under Subsection E below.
- C. Power tools. It shall be unlawful to cause a noise disturbance across a real property line by operating any mechanically powered saw, sander, grinder, drill, lawnmower or garden tool or similar device used outdoors, with the exception of snowblowers, before 7:00 a.m. (7:30 a.m. between June 15th and September 15th in each year) Monday through Saturday and before 10:00 a.m. Sunday. Snowblowers, lawnmowers and chain saws shall be exempted from the L-10 and maximum permissible A-weighted sound-level limits enumerated in Table I below.^[3]

However, such tools shall be operated within all applicable time restrictions and shall be operated in a reasonable manner.

[Amended 4-4-2006 ATM by Art. 61, approved 8-2-2006; 4-11-2007 ATM by Art. 54, approved 1-28-2008]

[3] *Editor's Note: See § 101-4.*

- D. Radios, television sets, musical instruments and similar devices. It shall be unlawful to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15th and September 15th in each year) in such a manner as to create a noise disturbance across a real property boundary.

[Amended 4-4-2006 ATM by Art. 61, approved 8-2-2006; 4-11-2007 ATM by Art. 54, approved 1-28-2008]

- E. Exemptions. The following uses and activities shall be exempt from noise-level regulations:

- (1) Noises of safety signals, warning devices and emergency pressure-relief valves.
- (2) Noises resulting from any authorized vehicle when responding to an emergency call or acting in time of emergency.
- (3) Noises resulting from emergency and maintenance work as performed by the Town, by the state or by public utility companies.
- (4) Noises resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town, but only to the extent such activities and the resulting noises are within the scope of such license or permit.

[Amended 4-30-2003 ATM by Art. 56, approved 8-27-2003^[4]]

[4] *Editor's Note: This article provided that it shall become effective 9-2-2003.*

- (5) The unamplified human voice.
- (6) Parades and public gatherings for which the Selectmen have issued a permit.
- (7) Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services, and those bells, chimes or carillons that are presently installed and in use for any purpose.

§ 101-3 Measurement of noise.

- A. The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by ANSI S1.4 - 1971 Type 1 or Type 2 and IEC 1979. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. During measurement, the microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. 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.

- B. The slow meter response of the sound-level meter shall be used in order to best determine that the amplitude has not exceeded the limiting noise levels set forth in Table I^[1] below.

[1] *Editor's Note: See § 101-4.*

- C.

The measurement shall be made at the location that the noise is perceived by the complainant or upon a public way, at a level of five feet above the ground.

§ 101-4 Noise tables.

- A. Table I: Limiting Noise Level for Use Districts. (Use District A represents the LUG-1, LUG-2, LUG-3, ROH and SOH Residential and MMD, AHD, OIH, and ALC Special Districts. Use District B represents the R-1, R-2 and R-10 and SR-1 and SR-2 Residential Districts. Use District C represents the LC, RC and RC-2 Commercial Zones, all as defined and delimited in the Nantucket Zoning Ordinance, as amended.^[1])

[Amended 4-30-2003 ATM by Art. 56, approved 8-27-2003^[2]]

Maximum Permissible A-Weighted Sound Level		
Use District	Day	Night
District A:		
L-10 level	55	45
Maximum	68	58
District B:		
L-10 level	60	45
Maximum	70	58
District C:		
L-10 level	60	60
Maximum	70	70

NOTES:

- "L-10" refers to a national guideline for measuring noise levels over time and is recommended by the Environmental Protection Agency.
- Sound levels are in decibels re: 20 micropascals, measured on the A-weighting network of a sound-level meter meeting the standards referenced in § 101-3A.

- (1) For the purpose of this table, "day" shall be defined as 7:00 a.m. to 10:00 p.m. (7:30 a.m. between June 15th and September 15th in each year), and "night" shall be defined as 10:00 p.m. to 7:00 a.m. (7:30 a.m. between June 15th and September 15th in each year).

[Amended 4-4-2006 ATM by Art. 61, approved 8-2-2006; 4-11-2007 ATM by Art. 54, approved 1-28-2008]

- (2) If the noise is not smooth and continuous, one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given in Table I of this section.

[1] *Editor's Note: See Ch. 139, Zoning.*

[2] *Editor's Note: This article provided that it shall become effective 9-2-2003.*

- B. Table II: Type of Operation in Character of Noise.

Character of Noise	Correction
Impulsive (hammering, etc.)	-5
Periodic (hum, screech, etc.)	-5

§ 101-5 Application for special permit.

[Amended 4-30-2003 ATM by Art. 56, approved 8-27-2003^[1]]

Application for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made before the Board of Selectmen. Any permit granted by the Selectmen shall set forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement. Each such permit shall specify, to the extent applicable, the following:

- A. Whether the specified noise permitted is in excess of the levels barred by §§ 101-2A, 101-3 and 101-4, as well as § 101-1A, B or C, and the extent of the permitted excess;
- B. The specified dates and times of day the excess is permitted;
- C. The particular location, specifying outdoors, indoors or indoors open to the outdoors, and where on the premises the specified noise is permitted to originate; and
- D. The permitted type of noise: amplified music, amplified speaking or singing voice, live band, acoustic musical instrument, or other.

[1] *Editor's Note: This article provided that it shall become effective 9-2-2003.*

§ 101-6 Violations and penalties.

[Amended 4-30-2003 ATM by Art. 56, approved 8-27-2003^[1]]

- A. Upon an apparent violation of this chapter, the offending party shall be given a verbal order by the enforcing police officer to cease or abate the noise immediately or within a specified period of time. If the order is not complied with, the person or persons responsible for the noise shall be charged with a violation of this chapter. Anyone who violated this chapter shall be subject to a fine of \$100. Written record of all measured violations shall be kept by the Police Department.
- B. Any police officer of the Town may utilize the noncriminal disposition specified in MGL c. 40, § 21D and Nantucket Code §§ 1-2 through 1-6.

[1] *Editor's Note: This article provided that it shall become effective 9-2-2003.*