



# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

**Board of Selectmen Agenda  
Regular Meeting  
Thursday, October 4, 2018  
Colchester Town Hall, 7PM**

2018 SEP 28 AM 10:45  
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COLCHESTER, CT

1. Call to Order
2. Additions to the Agenda
3. Citizen's Comments
4. Consent Agenda
  - a. Approve Minutes of the September 5, 2018 Joint Board of Selectmen and Board of Finance Meeting
  - b. Approve Minutes of the September 6, 2018 Regular Board of Selectmen Meeting
  - c. Historic District Commission
    1. Reappointment of Robert Kvederas for a five year term to expire 11/1/2023
    2. Reappointment of Linda Akerman for a five year term to expire 11/30/2023
  - d. Ethics Commission
    1. Reappointment of John Malsbenden for a three year term to expire 11/1/2021
    2. Reappointment of Teresa Pineau for a three year term to expire 11/1/2021
  - e. Reappointment of Kristen Moody to the Parks & Recreation Commission for a four year term to expire 11/30/2022
  - f. Reappointment of Patrick Reading to the Zoning Board of Appeals for a five year term to expire 12/1/2023
  - g. Reappointment of Dean Hunniford as Tree Warden to expire 11/17/2019
  - h. Reappointment of Richard Peruta as Emergency Management Director to expire 11/19/2019
  - i. Tax Abatements
5. Boards and Commissions – Interviews and/or Possible Appointments
  - a. Police Commission – John Carroll possible appointment to expire 11/1/2021
  - b. Open Space – Kris Barnard possible appointment to expire 3/31/2020
6. Approve Minutes of the September 10, 2018 Special Board of Selectmen Meeting
7. Approve Minutes of the September 13, 2018 Special Board of Selectmen Meeting
8. Discussion and Possible Action on Colchester Community Theatre Contract with ZFX Flying Effects Contract
9. Discussion and Possible Action on Request for Refund for a Building Permit
10. Discussion and Possible Action on Colchester Farmers' Market Alcohol Sales on Town Green Request
11. Discussion on Celebrate Colchester 57 Fest

12. Update from Recreation Director on Town Employee Discount on Programs
13. Discussion and Possible Action on Open Colchester Policy
14. Discussion on Possible Ordinance Revision's for Police Commission and Parks and Recreation Commission
15. Discussion on Implementing a Noise Ordinance
16. Citizen's Comments
17. First Selectman's Report
18. Liaison Reports
19. Adjourn

**Joint Board Meeting Minutes**  
**(Board of Selectmen and Board of Finance)**  
**September 5, 2018 @ 6 pm**  
**Town Hall – Room 1**

Present: Rosemary Coyle, Jim Ford, Art Shilosky, Denise Mizla, Stan Soby (by phone), Roberta Lepore, Andreas Bisbikos, Andrea Migliaccio, Nilda Negrón (arrived at 6:35) and Rob Tarlov

Also present – Maggie Cosgrove, Laura Steinmeyer and Chief Cox

Art called the joint meeting to order at 6:15.

**Comments and Questions:**

Andrea - she supports the Optimal Plan and believes we should move forward as this service is needed.

Rob - asked questions regarding the number of additional people under each option and asked if we are able to meet the current call value with the number of people we currently have. Laura replied to the first question that the Minimum Option added 1/2 a person; Acceptable Option, and additional 1/2 and the Optimal Option would add an additional firefighter EMT. She also added that two of the current EMT's are certified parameds and would receive a bump in pay (\$5/hour) and that we would need to add 88 hours/week using per diem compensation. Chief Cox replied to the second question that for the most part we are covering, however sometimes we receive many calls in a short period of time and then need to depend on mutual aid. In addition, he is down one person as is waiting to replace, waiting on decision on this program.

Andreas stated that he had done a lot of research and met with several parameds from other towns and believes that the Optimal Plan is the way to go as he felt the response car was important to response time as well as opportunity for future additional revenue.

Roberta asked if Maggie had vetted the numbers. Maggie said she had not. Roberta said that is a must before the next step. Roberta asked how long it would take to reach a breakeven. Laura replied, conservative estimate would be 3 years.

Stan (by phone) - agreed that Maggie vetting these numbers is a must. Stan questioned how revenue estimates were arrived at, and wasn't sure if the town used for the comparison was a comparable town. He asked a number of questions that he would need answers to will send those to Town for responses, which will be distributed to the board members.

Art stated that Lebanon had asked about the status of this plan as if moved forward, they would be interested in being a customer for this service.

Rosemary - had no questions as she had been involved in the planning since the start and said she felt the optimal plan was the way to go as the response car was important

Jim - asked if we have considered a part time program. Laura replied that we had but the State had told us they were not approving any more part time programs. She had heard that in some cases

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2018 SEP -6 AM 8:17  
Maggie Cosgrove

they were approving, so she would ask again. Jim support moving forward as this is a service that will work better if we have control and that we should provide this service in house and not depend on other provider outside our town. He said that although Middlesex had slowed down their plan to charge Colchester planned increases. (Art had stated we were still at \$16K per year but the plan was to increase us gradually up to \$84K per year). He also stated we should make sure we can handle the town calls before offering our service to other towns.

Rob asked if we could project the additional revenue possible from the Optimal Option. Roberta who had worked with Laura and Rosemary on the plan stated, we could not with the available data as the revenue estimates were based on current call volume and how many of those calls needed advance life support. He also asked if the cost of maintenance, fuel and insurance had been calculated into the costs of the Optimal Plan. No current answer could be provided.

Art stated we needed to see if we have enough money in Equipment Reserve to pay for the response car. Rob asked how we planned to pay for the \$100,000 startup costs for all options. Unassigned Fund Balance? Why couldn't car be appropriated from the same?

Roberta asked how long it would take to implement once the decision to move forward is made. Laura and Chief Cox stated it would take about 3-6 months to become certified and another 3 to 6 months to be fully operational. Andrea asked if there was any reason we would not be certified. Chief Cox replied, none that he could think of.

Rob asked for initial budget year, how much additional revenue we should project. Laura replied maybe 50% as they could not hire additional personnel until the new budget year.

Rob said he supported the Optimal Option if we moved forward, but thought to minimize the budget impact, that we should budget for the Acceptable Option in year 1 and then add the car and additional EMT in year 2.

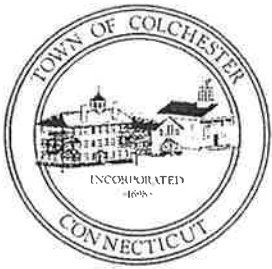
Rob asked what the next steps were. Art replied that the answers to Stan's questions needed to be distributed and that both Boards should add this to their October 3 and 4 agendas, with the plan to make a decision.

Citizens comments - none

Motion to adjourn by Rosemary, second by Jim. Passed 10-0 and meeting adjourned at 6:55pm.

Respectfully Submitted

Rob Tarlov, BOF Chair



# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Board of Selectmen Minutes  
Regular Meeting Minutes  
Thursday, September 6, 2018  
Colchester Town Hall @ 7pm

**MEMBERS PRESENT:** First Selectman Art Shilosky, Selectman Rosemary Coyle, Selectman Denise Mizla, Selectman Jim Ford and Selectman Stan Soby via conference call

**MEMBERS ABSENT:** none

**OTHERS PRESENT:** P&R Director T Quinn, Town Planner R Benson, Registrar D Mrowka, J Stone and clerk Dean

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2018 SEP 10 AM 11:53

**1. Call to Order**

A Shilosky called the meeting to order at 7:01 pm.

**2. Additions to the Agenda**

A Shilosky asked to add #9 Discussion and Possible Action on Zambelli Fireworks Contract for Celebrate Colchester – 57 Fest, and renumber remaining items.

R Coyle moved to add agenda item as presented, seconded by J Ford. Unanimously approved. MOTION CARRIED.

**3. Citizen's Comments – none**

**4. Consent Agenda**

- a. Youth Services Advisory Board – Resignation of Kathy Wonderly
- b. Tax Abatements - none

R Coyle moved to approve the consent agenda, seconded by D Mizla. Unanimously approved. MOTION CARRIED

**5. Boards and Commissions – Interviews and/or Possible Appointments**

- a. Open Space – Kris Barnard to be interviewed – was interviewed
- b. Police Commission – John Carroll to be interviewed – was interviewed
- c. Economic Development Commission – Heide Perham possible appointment from alternate member to regular member to expire 10/31/2021 – D Mizla moved to appoint Heide Perham from alternate member to regular member to the Economic Development Commission to expire 10/31/2021, seconded by R Coyle. Unanimously approved. MOTION CARRIED

**6. Approve Minutes of the August 16, 2018 Regular Board of Selectmen Meeting**

D Mizla moved to approve the minutes of the August 16, 2018 Regular Board of Selectmen meeting, seconded by J Ford. Unanimously approved, with one abstention by R Coyle. MOTION CARRIED

**7. Discussion and Possible Action on Colchester Farmers' Market Alcohol Sales on Town Green Request**

Jessica Stone, owner of Cold Spring Farms and facilitator of the Farmers' Market was present with These Guys Brewery owner Rebecca Albert. J Stone discussed the background of the market and where the market stands today with over 70 vendors and approximately 2,000 visitors every Sunday. She explained the purpose of the market is to promote community and collaborate with local businesses. Her request is to bring the brewery to the market for them to sell 64 oz growlers (beer). This would be for sale only and would indicate with a sign that alcohol is not to be consumed on town property. J Stone also offered to hire a police officer to police the green, at her cost, during the Farmers Market. J Stone realizes that there is a town ordinance prohibiting alcohol on town property, but is asking for a special exception. The Board had questions/concerns on; town insurance, Identification of minors, applicable state regulations, how other towns that have Farmers Markets selling on town property have put a policy into place, how those towns enforce the policy and regulations. The Board would also like Sgt. Martinez feedback, and would other similar vendors be allowed if this one was allowed. S Soby stated that the Board would like to look at how the town could support the farming community, but not have a situation undermine what we are trying to do with town property. A list of other towns in similar situations was requested from J Stone. Once the First Selectman's Office receives this, they will request from CCM a list of their policies. R Benson will research any state statutes that may prohibit alcohol within a certain distance from schools and churches. A Shilosky will look into our town insurance to find out what their process and position on the matter will be. If the town

insurance would require additional insurance, that would be a cost the Farmers' Market would be responsible for. NO ACTION

**8. Discussion on Celebrate Colchester – 57 Fest**

T Quinn went over expenses and revenue from last year's 57 Fest to this year. Sponsorship from businesses has been extremely low this year. At this point there is not enough funding from sponsorship dollars to have the fireworks. Discussion on vendors, sponsors, cutting the amount of fireworks, and charging admission. A Shilosky stated that a decision needed to be made to cancel the event or figure out how to make up for the difference without using taxpayer dollars. The Board agreed that it was too late at this point to cancel the event. The Board and T Quinn agreed that if P&R could not raise the amount needed for the fireworks by Monday, 9/10, the fireworks would be cancelled but the event would go on as planned.. NO ACTION

**9. Discussion and Possible Action on Zambelli Firworks Contract for Celebrate Colchester – 57 Fest**

R Coyle moved to postpone voting and hold a special meeting on Monday, to vote on the Zambelli fireworks contract, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

**10. Discussion and Possible Action on PermitLink Service Contract for Planning & Zoning Dept.**

R Benson stated the funding has already been allocated in this year's budget. The cap is \$11,000 for three years, and then can renegotiate the contract. The department has already been trained on the software. R Coyle moved that the Town of Colchester approve to authorize the First Selectman to sign the contract for a three year agreement with PermitLink per the contract dated August 29, 2018, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

**11. Discussion and Possible Action on Open Colchester Policy**

S Soby stated that the subcommittee received feedback from the CFO and they have not been able to have a discussion as a group on it yet. After the subcommittee meets again to discuss, they will bring it back to the BOS with recommendation. NO ACTION

**12. Citizen's Comments - none**

**13. First Selectman's Report**

A Shilosky reported that the School Resource Officer Suchecki will be retiring next year. He will work with Sgt. Martinez on next steps for replacement. Sgt. Martinez may also be retiring sometime next year. The Halls Hill Project grant funding has been released, and has increased from \$564,000 to \$709,000. Next step is that SCOGG Executive Board will meet to vote on the project. On 9/12 there will be a meeting with the State DOT regarding the light at the center of town and they will be putting a controller in a location on the green. The Police Dept. has hired a new Assistant to the Dept. Head and will start on 9/17. Fiber Optics at Town Hall was installed today and is now working. Next step is to replace the switches.

**14. Liaison Reports**

R Coyle reported on Chatham Health – they are dealing with issues in hiring food service people. Directors will be evaluated at the next meeting.  
Building Committee – prior to the opening of school, the Fire Dept. went with a drone to the school and did an arial view of the property. Finishing the second gym and pupil services area.  
D Mizla reported on BOE – C3 celebrating 10 years on 9/17 at WJJMS commons area. Administration gave the report of first day of school.  
Youth Services – Open house will be on 10/3. K Wonderly resigned. Brainstorming on getting new members. 9/21 will be an outdoor movie night.

**15. Adjourn**

R Coyle moved to adjourn at 8:46 p.m., seconded by J Ford . Unanimously approved. MOTION CARRIED.

Respectfully submitted,



Tricia Dean, Clerk



# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Board of Selectmen Minutes  
Special Meeting Minutes  
Monday, September 10, 2018  
Colchester Town Hall @ Noon

**MEMBERS PRESENT:** First Selectman Art Shilosky, via conference call Selectman Stan Soby, Selectman Denise Mizla, and Selectman Jim Ford

**MEMBERS ABSENT:** Selectman Rosemary Coyle

**OTHERS PRESENT:** P&R Director T Quinn and clerk T Dean

**1. Call to Order**

A Shilosky called the meeting to order at 12 p.m.

**2. Discussion and Possible Action on Zambelli Fireworks Contract for Celebrate Colchester 57 Fest**

T Quinn stated that over the weekend she was able to secure \$3,500 from residents and business owners, with approximately an additional \$1,000 promises to come in. R Coyle, though absent, sent an email that she was in favor of approving the contract.

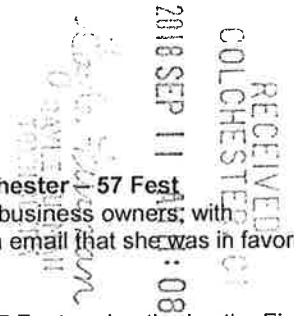
S Soby moved to approve the Zambelli Fireworks contract for the Celebrate Colchester 57 Fest and authorize the First Selectman to sign, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

**3. Adjourn**

D Mizla moved to adjourn at 12:05 p.m., seconded by J Ford. Unanimously approved. MOTION CARRIED.

Respectfully submitted,

Tricia Dean, Clerk





# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Board of Selectmen Minutes  
Special Meeting Minutes  
Thursday, September 13, 2018  
Colchester Town Hall @ 10 a.m.

**MEMBERS PRESENT:** First Selectman Art Shilosky, via conference call Selectman Rosemary Coyle, Selectman Denise Mizla, and Selectman Jim Ford

**MEMBERS ABSENT:** Selectman Stan Soby

**OTHERS PRESENT:** CFO M Cosgrove and clerk T Dean

**1. Call to Order**

A Shilosky called the meeting to order at 10 a.m.

**2. Discussion and Possible Action on Sale of Bonds and Bond Anticipation Notes for WJJMS Project**

D Mizla asked about the chart option 1A actual vs budgeted 1.6 million and if that meant the project was under budget. M Cosgrove stated that no, the original project plan called for us to maintain our budgeting level relating to debt services. As debt payments dropped, we set aside the difference.

R Coyle moved to authorize the sale of bonds and bond anticipation notes for WJJMS project as presented, seconded by J Ford. Unanimously approved. MOTION CARRIED.

**3. Adjourn**

R Coyle moved to adjourn at 10:11 a.m., seconded by J Ford. Unanimously approved. MOTION CARRIED.

Respectfully submitted,

Tricia Dean, Clerk

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2018 SEP 13 10:11 AM





611 Industry Rd.  
Louisville, KY 40208  
Ph. (502) 637-2500  
Fx. (866) 541-9389

## Service Agreement

This agreement is made by and between "ZFX" and the client listed below hereinafter named "Client." Please read this agreement carefully as it represents all aspects and promises made to Client. ZFX will provide services based on the description in the Artistic Vision. Everything required including equipment and staff are listed. Terms and Conditions contain information regarding client responsibility for payment, travel expenses, shipping, insurance and other important items. It is your responsibility to read and understand them.

**Company:** The Town of Colchester  
**Contact:** Rich Arsenault  
**Address:** 127 Norwich Avenue,  
Colchester, CT, 06415  
**Phone:** (860)965-7708  
**Email:** rich@richarsenault.com

**Date:** 8/9/2018  
**Valid Until:** **9/10/2018**  
**Terms:** See below  
**Producer:** Jessica May  
**Contact Ph:** (502) 637-2500 ext. 269

**Artistic Vision:**

*Classic flying for the show, including Mary's over-stage entrances & exits, Bert's upside-down dance across the Proscenium during 'Step in Time,' and Jane & Michael.*

Production Name		Load-In Date	Open	Close	Strike	
Mary Poppins		2/4/2019	2/15/2019	2/17/2019	2/18/2019	
Item	Qty	Description				
1.	1	Manual Flying Track System				
2.	1	Track System (manual lift/travel axis) with RCTA and special board attachment/components for Bert's upside-down walk during "Step in Time" - requires 2 lift operators				
3.	1	Seat Harness (Mary)				
4.	1	Somersault Harness (Bert)				
5.	2	Single-point Harnesses (Jane & Michael)				
6.	1	ZFX Flying Director on-site 3 days (2/4 - 2/6) for installation, choreography and training				
7.	1	FD airfare, local transportation, and meal per diem				
8.	1	Round-trip equipment shipping				
<i>(See Terms and Conditions on Pages 2 &amp; 3 for additional financial responsibilities.)</i>				<b>TOTAL (USD)</b>	\$ 7,510.00	
Contract Notes:						
This contract includes the cost of all Flying Director airfare, local transportation, meal per diem, and round-trip shipping of the equipment. The expense for						
1.	Flying Director hotel accommodations is not included: Client will be responsible for directly booking/expensing and relaying to Flying Director, prior to arriving on-site.					
Other Important Dates						
Staff	Hotel Check-In	Hotel Check-Out	Days on Location	Payment Schedule	Amount (USD)	Due
1 ZFX FD	2/3/2019	2/7/2019	3	<b>1st Payment:</b>	\$ 3,755.00	<b>9/10/2018</b>
				<b>Balance:</b>	\$ 3,755.00	2/4/2019

Client Signature / Date \_\_\_\_\_ / \_\_\_\_\_

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## Terms & Conditions

### 1. Client Responsibility

Initial  
Here

- a. Client is responsible for hotel reservations, minimum three star, with in-room high speed internet and parking included, guaranteed late arrival and direct billing to Client (one room per ZFX Director).
- b. **IMPORTANT:** Unless contract specifies otherwise, final balance due for cost of services and all expenses to date must be presented to the Flying Director prior to installation of equipment. The ZFX Director will not load-in your show without payment in full.
- c. **DO NOT MAIL YOUR BALANCE DUE CHECK.** Please present it to your ZFX Director.

### 2. Indemnification and Insurance

Initial  
Here

- a. If requested, ZFX agrees to add Client to its Commercial General Liability Insurance Policy as an additional insured, but only as respects to the operations and/or negligence of ZFX. A Certificate of Insurance reflecting this shall be provided to the Client upon request.
- b. Client expressly agrees to ensure that anyone utilizing the ZFX equipment is covered by Client's own Workers' Compensation Insurance, or Client's own liability insurance, whichever applies. Any release must include ZFX and its employees among those released from responsibility and liability. The client agrees to endorse, at their own expense, their General Liability policy to include ZFX, Inc. as an Additional Insured.
- c. Client agrees to defend, indemnify and hold harmless ZFX, Inc., its officers, agents, sub-contractors and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind of nature which ZFX, Inc., its officers, agents, sub-contractors and employees may sustain or incur or which may be imposed upon them for injury to or death of person or damage to property as a result of, arising out of, or in any manner relating to the use and operation of ZFX, Inc.'s Equipment under the terms of this Agreement, excepting only liability arising out of negligence or intentional wrongdoings by ZFX, Inc.
- d. ZFX, Inc. agrees to defend, indemnify and hold harmless Client, its officers, agents, sub-contractors and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind of nature which Client, its officers, agents, sub-contractors and employees may sustain or incur or which may be imposed upon them for injury to or death of person or damage to property as a result of, arising out of, or in any manner relating to the use and operation of ZFX, Inc.'s Equipment under the terms of this Agreement, excepting only liability arising out of negligence or intentional wrongdoings by Client.
- e. All individuals using the ZFX equipment must sign an indemnification form prior to the first flight.

### 3. Equipment Shipment and Return

Initial  
Here

- a. Equipment is shipped ground freight and will be delivered directly to the performance venue. Once equipment is shipped, you will be notified of carrier and tracking information. Client will be given an approximate arrival date and is responsible for tracking such date through carrier. A Client representative must be present to accept the shipment. Any additional delivery charges due to non-acceptance of the equipment are the sole responsibility of the Client.
- b. The Client will accept the equipment as received and will be considered in good condition unless otherwise listed in writing and presented to the ZFX Director.
- c. Unless your Flying Director is staying on location during the run of the show or return arrangements have been made, the flying equipment must be taken down by the Client. The Flying Director will provide full removal instructions before leaving the venue. Unless ZFX receives a call from the Client, we will assume you have been properly trained for removal of equipment.
- d. The equipment must be returned in the same shipping method sent within two days of show closing (late fee will apply.) Client is responsible for any damage to the equipment during return shipping until it arrives at the ZFX warehouse.
- e. Upon return, if it is determined that the equipment has suffered more than expected wear and tear, repair charges will be assessed at the sole discretion of ZFX and the Client will be invoiced accordingly. If any items are lost or permanently damaged, Client will pay full replacement costs.

Client Signature / Date \_\_\_\_\_ / \_\_\_\_\_

**4. Installation and Removal Requirements**

Initial Here

- a. Technical worksheets and harness charts are due at least 30 days prior to load in. For signed contracts received less than 30 days prior to load in, technical worksheets are due two days after receipt of contract and harness charts are due seven days after receipt of contract. ZFX may assess a \$100 per day late fee for technical worksheets and/or harness charts received after due date. Equipment shipping costs may be increased as a result of late worksheets or harness charts; Client is responsible for all shipping costs. Client may be responsible for additional installation charges once technical worksheet has been received.
- b. For safety reasons, flying performers in excess of 225 lbs may require custom harnesses and additional flying equipment. This could result in additional costs. Please notify your Flying Producer immediately if you have a flying performer who exceeds this threshold.
- c. Any charges for overnight harness shipments due to late harness charts are the sole responsibility of Client.
- d. Client is responsible for providing a minimum of one person per travel line and one person per lift line (heavier loads may require two people per lift line.) All operators must be at all rehearsals.
- e. Client must provide a minimum of four capable people to assist with load-in. If sufficient personnel are not provided for load-in and strike, Client will incur an additional charge of \$1,000 per day delayed, due immediately upon invoicing. ZFX is not responsible for venue overtime fees for extended installation and removal time due to lack of personnel assistance.
- f. Client must provide access (lift or otherwise) to the structure from which ZFX will hang the flying equipment.
- g. For productions using Automated/Motorized Equipment, Client must provide appropriate, convenient electrical power tie-in to a 208-240v 3-phase power source, with an allotment of 30 amps per hoist. For rentals of 3 or more hoists, ZFX will provide a CAM-lok distro free of charge. For rentals of fewer than 3 hoists, Client is responsible for providing an alternative to CAM-lok style power tie in. Acceptable alternative methods include: a 30 Amp cable tail from the power source with a ZFX approved L21-30 or Hubbel 50amp twistlock connector; a 30 Amp tail (with a female plug) from the power source and a matching male plug to be given to ZFX at installation; a fused disconnect in an accessible panel. If the client is unable to provide an alternate tie-in method, an additional \$150 per week rental charge will apply for a ZFX provided CAM-lok power distro.
- h. Client will ensure the facility is safe to install and operate the illusion and equipment. ZFX has the final say whether a facility is safe to rig. If ZFX deems the facility unsafe once on location, Client is responsible for 50% payment and all expenses to date.

**5. Other Important Information**

Initial Here

- a. Title page and bio program credit and/or scrolling video credit are required in legible font to read "Flying Effects provided by ZFX, Inc." Client is subject to a \$500 penalty charge if program credit is not provided. Any advertising or poster publicity must mention ZFX with the same wording.
- b. Videotaping or photographing of the operation and design of harness and/or equipment is strictly prohibited without prior approval of ZFX.
- c. ZFX has the right to enter the venue at anytime to remove the equipment due to non-payment. Client is not authorized to utilize the ZFX equipment any longer than contracted unless prior authorization and additional payment in full has been received. No one other than a ZFX representative is authorized to alter or modify the ZFX equipment or harnesses. Any unapproved modifications will be invoiced to the Client at the full discretion of ZFX.
- d. Cancellations must be received 45 days prior to load-in date. Booking deposits are non-refundable. In the event of a cancellation, Client is responsible for all expenses to date including airline reservations, freight costs and any custom equipment that has been produced specifically for this production. This applies also to "Optional Items" selected on page 1 of this Agreement. In the event of a Client request to amend or remove "Optional Items" previously selected, if within 45 days of load-in ZFX reserves the right to invoice Client for the full amount of the limited availability item, as it was reserved for this production and therefore unrentable to another production.
- e. The signatures of both parties here below signify mutual agreement to all the terms herein. I have read each section thoroughly and my initials indicate that I understand and agree in full. **Furthermore, I acknowledge I am an officer of my organization with appropriate authorities to enter into this Agreement on behalf of my organization, and that in the event I do not have proper authorities, I am personally accepting the responsibilities and liabilities in this Agreement.** This agreement shall be construed to be in accordance with and governed by the laws of the Commonwealth of Kentucky.

\_\_\_\_\_  
Client Authorized Officer Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Client Authorized Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
ZFX Authorized Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
ZFX Authorized Signature

\_\_\_\_\_  
Date

ZFX PROPRIETARY INFORMATION

This information is only intended for the recipient.



**WAIVER AND INDEMNIFICATION AGREEMENT**

Rev. 08/2016

**THIS DOCUMENT MUST BE COMPLETED AND GIVEN TO THE ZFX, INC. DIRECTOR ON LOCATION PRIOR TO THE FIRST FLYING REHEARSAL.**

ORGANIZATION \_\_\_\_\_

CONTACT NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

**For Paragraphs 2 and 5, the Organization listed above and all cast members, performers, crew, equipment operators, volunteers and guardians are called "Client." For all other paragraphs, "Client" is the Organization listed above.**

1. In this Waiver and Indemnification Agreement, "Equipment" shall mean flying effects, including, but not limited to, all hardware, operation and training.
2. Client acknowledges and agrees that there are certain obvious and necessary risks involved in this theatrical context, including but not limited to performing on platforms, being lifted with harnesses by mechanical or manual apparatus, utilizing the Equipment, and working near the Equipment. Each Client expressly agrees to assume all risks incident to utilizing, and working near, the Equipment.
3. Client shall be fully responsible for the use and maintenance of the Equipment.
4. Client agrees to ensure that all who will or may use, operate, or have physical contact with the Equipment, and guardians of any such individuals under the age of eighteen, sign this form where indicated.
5. Client agrees to defend, indemnify and hold harmless ZFX, Inc., its officers, agents, sub-contractors and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which ZFX, Inc., its officers, agents, sub-contractors or employees may sustain or incur or which may be imposed upon them for injury to or death of persons or damage to property as a result of, arising out of, or in any manner relating to the use and operation of the Equipment, excepting only liability arising out of negligence or intentional wrongdoings by ZFX, Inc.
6. The indemnities set forth above shall include reasonable attorney's fees and costs and shall be governed by the laws of the Commonwealth of Kentucky, without reference to principles of choice of law.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

CLIENT AUTHORIZED SIGNATURE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_

ZFX, INC. AUTHORIZED SIGNATURE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_

**SIGNATURES OF ALL CAST, PERFORMERS, CREW, EQUIPMENT OPERATORS, VOLUNTEERS, AND GUARDIANS AGREEING TO ALL OF THE ABOVE STATED:**

FLY TEAM MEMBER NAME (PRINT)	GUARDIAN, IF UNDER 18 YEARS OF AGE (PRINT)	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

## MEMO

To: Colchester Board of Selectman

From: Randy Benson, Planning Director

**DATE: September 9, 2018**

**Re: Request for refund for a building permit.**

The Building Department has received a request for refund for a building permit that was reviewed and issued. The permit was issued to Trinity Solar for a property in Colchester. The property owner chose not to hire Trinity Solar after the permit was issued so they are now requesting a refund for the permit.

In the past the Town has not granted refunds for building permits or other applications because the review work had been performed by Town staff and the permit was issued. The Town also did not want to set a precedent for issuing refunds.

I have attached a copy of the refund request from Trinity Solar. I am requesting the Board of Selectman take action on either granting or denying the request.



8/28/2018

To Whom It May Concern,

This letter is to request a refund for a permit taken out for a job scheduled at  
201 Bull Hill Rd, Colchester, CT for Spaller, Joshua-. This job  
has been canceled per customer's personal reasons and we would like to request the permit fee to be  
refunded to us at Trinity solar. The check number was # 15406, for an amount of \$  
811 On 4/18/2018.

Thank you,  
Mike Mazzamurro  
Field install Director

**Connecticut Office**

7 McKee Place  
Cheshire, CT 06410

 Made with Earth-Friendly Products

Ph: 203.701.3724  
Fax: 203.687.4205  
[www.Trinity-Solar.com](http://www.Trinity-Solar.com)

Below is a summary of USI Insurance Services comments related to the Farmers Market and the potential sale of Beer Growlers by a vendor:

- From an insurance coverage perspective, the Town is afforded liability coverage under the CIRMA LAP policy, if brought into a lawsuit by a third party injured or suffering property damage in connecting somehow with the selling by vendors of “Beer Growlers” at the Farmers Market. This is due to the fact the CIRMA LAP policy does not have a liquor liability exclusion. However, note that while CIRMA would initially defend the Town and its officials, it would also investigate the circumstances involved in the specific claim before rendering a coverage position.
- From a risk management perspective, the fact the Town is not directly involved in the Farmers Market should help shield it from claims of the nature above.
- You mentioned that the Town and its Board of Selectmen may consider a variance to the current ordinance prohibiting alcohol on Town premises. We talked about whether a temporary variance could be constructed, to allow for an end date to evaluate how the Farmers Market beer sales were going and if there were any incidents.
- The Town may wish to consider posting “no alcohol consumption” signs on Town owned or leased property, to reduce the exposure of liquor liability. However, consider that the beer sellers may be offering samples of their beer, and something that will need to be dealt with.
- The Farmers Market operators should be encouraged to secure verification of both liquor liability and general liability coverage from the beer sellers, as well as their license to sell their beer products.
- You indicated that the Farmers Market will not be allowed indoors at any Town or School District facility.
- You have asked CCM for information on what other Towns are doing related to this type of situation. We are not currently aware of any Farmers Markets selling alcohol but will keep our eyes/ears open in case we learn of any, that may help you with yours.

# Zoning Regulations

Effective date: January 15, 2015

## 12. Junk Vehicles

No Junk Vehicles as defined in Section 20.4 are permitted in any district except no more than one (1) unregistered vehicle may be stored or parked on any Lot except where automotive repairs are permitted, or at an authorized and licensed salvage or recycling operation. This paragraph shall not apply to vehicles used for agricultural purposes.

## 13. Alcoholic Beverage

A. Buildings used for the sale or dispensing of alcoholic beverages shall be located no closer than 500 feet to the boundary line of a property used as an Education Institution; except that the sale of beer/wine in a grocery store is exempt from these provisions.

B. In the Town Center District, Buildings used for the sale or dispensing of alcoholic beverages shall be located no closer than 500 feet to the boundary line of the Colchester Intermediate, Jackter or Johnston school properties. The limitation in 8.8.13.A shall not otherwise apply in the Town Center District.

## 14. Refuse Disposal

Except as permitted by Special Permit in an authorized refuse disposal, salvage or recycling operation, no property shall be used for the outside storage, keeping or abandonment of worked out, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to some other use.

## 15. Camper units/Recreational Vehicles

No more than one (1) camper unit or Recreational Vehicle (RV) shall be parked or stored on a Lot, except in an authorized recreation campground. Recreational Vehicles shall be located behind the front building line in side or rear Yards. Recreational Vehicles cannot be used as permanent Dwelling Unit or for office use. See Exhibit 11.



### **Farmers' Market on Town Properties Allowing Alcohol Sales Research**

Research through CCM as well as contacting towns' directly, only two towns (out of approximately 18 towns with Farmers' Markets) that have Farmer's Markets on town property allow alcohol sales. Of these two towns, they both have ordinances addressing allowing alcohol sale and consumption on town property.

#### **WILLIMANTIC FARMERS MARKET – town property**

Held at the Jillson Square, which is owned by the Town of Willimantic. Willimantic's ordinance allows alcohol consumption on town property as stated in Chapter 9-1 (C)

Attachment A:

Town Alcohol Ordinance

Parks Use Committee; use of property

#### **BOZRAH FARMERS MARKET – town property**

Ordinances not posted online. Contacted Town Clerk's Office, waiting for reply.

Note – during Board of Selectmen meeting on September 6, 2018, the Board was informed that the Coventry Farmers Market was held on Coventry Town property. The property, Nathan Hale Homestead, is not owned by the Town of Coventry as it is privately owned.

#### **COVENTRY FARMERS MARKET – not a town property**

Held at the Nathan Hale Homestead property, which is privately owned. The Coventry Public Works Dept. has a cooperative agreement to do minor maintenance of the parking lot and some mowing of the grounds.

## Article I: In General

### Sec. 9-1 Possession or consumption of alcoholic liquor on public highways, streets, sidewalks, parking areas or in parked vehicles.

[Ord. of 7-7-1987]

- (a) Definitions. As used in this section the following terms shall mean:

#### **ALCOHOLIC LIQUOR**

The same as defined in the Connecticut Liquor Control Act, Section 30-1 of the General Statutes.

#### **OPEN CONTAINER**

Any open bottle; any bottle which was sealed by a liquor tax stamp, and which seal has been broken, whether or not stopped; any can which has been opened in any way, or any glass, cup, jar, or other vessel.

#### **PARKED VEHICLE**

The same meaning as in G.S. 14-1.

#### **PARKING AREAS**

Lots, areas or other accommodations for the parking of motor vehicles off the street or highway and opened to public use with or without charge as defined by G.S. 14-219a.

#### **POSSESSION WITH INTENT TO CONSUME**

Possessing or in control of alcoholic liquor in a glass, an open bottle, an open can, or other open container so as to permit consumption.

#### **PUBLIC HIGHWAY**

Any state highway, or any other highway or road, open to the general public.

#### **SIDEWALK**

Any walkway, open to the general public, adjacent to and/or abutting any public highway.

- (b) Prohibited acts. No person shall possess with intent to consume any open container of any alcoholic liquor upon or within the limits of any public highways, roads, streets, sidewalks, or parking areas within the town. Further, the possession of an opened container of alcoholic liquor with the intent to consume, or consumption of alcoholic liquor in motor vehicles parked on said premises shall also be deemed a violation hereof.
- (c) Exceptions. Persons may possess alcoholic liquor with the intent to consume and may consume alcoholic liquor during any public function, festival, or celebration without violating this section; provided, however, that the Chief of Police or his designee has first given written authorization to permit the service or distribution of alcoholic liquor at or in connection with such function, festival or celebration. Such authorization may permit the possession or consumption of alcoholic liquor on a continuing basis, provided that the Chief of Police or his designees is satisfied that such activity will be supervised by an agent or employee of the town.
- (d) Penalty. Violation of this section shall be punishable in accordance with Section 1-7.

### Sec. 9-2 Littering.

[Ord. of 1-23-1996, §§ 1 — 3]

- (a) Prohibited. No person shall throw, scatter, spill, or place, or cause to be blown, scattered, spilled, thrown, or placed, or otherwise depose [dispose] of any litter upon any town property not designated for the reception of refuse or upon any private property not owned by him, or in wetlands or watercourses, or on any public highway, except into a litter receptacle

in such manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public waterway, public property, or highway.

- (b) Violation; offense. Any person who violates any provision of Subsection (a) of this section shall be deemed to have committed an infraction. When any such material or substances are thrown, blown, or scattered from a vehicle, the operator thereof shall be deemed prima facie to have committed such offense.
- (c) Interpretation. The definitions contained in G.S. 22a-248 shall be used in the interpretation of this section.

### **Sec. 9-3 Conditions generating flies and other insects.**

[Ord. of 12-1-1998]

- (a) All conduct, activities, operations and practices conducted on property located within the Town of Windham that have the tendency to, or do, create conditions for the breeding or other generation of flies and other insects so as to create a public nuisance are prohibited.
- (b) The Board of Selectmen is authorized to appoint the town sanitarian, the town Health Director, or other proper official to carry out and execute the provisions of this section.
- (c) When the appointed official or his designee finds a condition within the Town of Windham that is causing a public nuisance by way of generating, creating or otherwise generating concentrations [of] frequent or continuous fly or insect infestations that affect residents living off the site of the source, and within the Town of Windham, or that such a condition is caused, in whole or in part, by any condition occurring on any property within the town, he shall order the owner of the land, the owner of the facility (if applicable) or the operator, or all of these, to abate such conditions. In issuing the order, it [he] may also order, upon a schedule, proper changes to the operations which contribute to the nuisance. Failure by the ordered party to immediately comply with such abatement order, and whatever schedule is ordered, shall result in fines not exceeding \$250 per day, which will be imposed as long as either the condition(s) causing or contributing to the nuisance continues. The fines may be imposed by the official issuing the order, in his discretion, and he may recover such fines, if unpaid as ordered, together with his costs of suit and reasonable attorney's fees, by commencing a proper action in the superior court. He may also enforce the provisions of his orders, in whole or in part, by commencing a proper action in the superior court.
- (d) The official or his designee may make such investigations and studies as he deems necessary or appropriate to reach his determinations.
- (e) When making determinations that a public nuisance exists, the official may consider the following conditions to constitute per se grounds for imposing fines, issuing orders or taking other reasonable, appropriate actions:
  - (1) Accumulating, stockpiling or failing to cover, properly contain or properly treat manure, waste, refuse and animal carcasses in a manner which creates or is likely to create breeding of insects or create insect larvae infestation or growth;
  - (2) Failing to timely and responsibly use proper pesticides or feed additives to prevent the infestation or growth of larvae according to prevailing farm management practices and applicable statutes and laws;
  - (3) Failing to maintain proper conditions and/or failure to make necessary structural changes anywhere on the premises, including in or out of any structures, so as to prevent manure, refuse or waste from becoming or remaining moist, wet or damp in such a manner that insects or flies may breed or larvae may generate.
- (f) In addition to the foregoing, the official may order the respondent to take the following action and steps, together with other steps the official believes will prevent or diminish any further outbreaks and remedy the offending condition:
  - (1) Order the immediate or scheduled removal or drying, or both, of manure, refuse or waste which is accumulated on or about the property; and may order a schedule for regular schedule for whatever period such official believes to be prudent;
  - (2) Order that the respondent seal or enclose areas, structures, containers, transport or other vehicles containing any manure, waste, or refuse, including covering manure in a manner to destroy insect larvae, and order that the respondent

provide traps or other catching devices on or off the property to reduce the effects of the nuisance;

- (3) Order that the respondent substitute feed, pesticide or other products being used so as to improve the prevention of larvae origination and growth;
- (4) Order such other reasonable and appropriate steps to reduce and/or eliminate the nuisance.
- (g) The officials shall be guided by, but not limited to, state statutes and regulations applicable to the operations, practices, conduct and the industry involved in the determined public nuisance; furthermore, such official, in performing any inspections on-site, shall make good faith efforts to comply with the recommended state and federal procedures for performing inspections.

**Sec. 9-4 through Sec. 9-20. (Reserved)**

## Chapter 13 Willimantic Service District

**ARTICLE III: Parks and Recreation****Sec. 13-51 Parks Use Committee; use of property.** <sup>[1]</sup>

[Ord. of 8-15-1995]

- (a) Pursuant to G.S. 7-148(c)(4)(C), 7-148(c)(6)(A)(i), 7-148(c)(7)(H)(vii) and 7-148(c)(10)(A), there is hereby established a Parks Use Committee consisting of the Public Works Superintendent, Recreation Director, and the Chief of Police of the Willimantic Service District. The Recreation Director shall, unless otherwise determined by the Committee, be its chairman.
- (b) The Committee shall:
- (1) Monitor the use and condition of all town property used, regularly or intermittently, for recreational purposes;
  - (2) Make recommendations to the Board of Selectmen, from time to time, concerning the condition and use of such property; and
  - (3) Act upon applications for use pursuant to and in accordance with this section.
- (c) Any person (including organization) desiring to use any of such property shall apply for a permit for such use to the Recreation Department at least four weeks in advance, which application shall contain:
- (1) Name, address and telephone number of applicant;
  - (2) Date, place, time and anticipated duration of the proposed use;
  - (3) Anticipated size of the gathering;
  - (4) Whether music will be played;
  - (5) Whether a sound system will be used;
  - (6) Whether food or beverages will be available on-site;
  - (7) A request for town or service district services necessitated by special needs, if any;
  - (8) A signed commitment that the applicant will be responsible for the removal of any debris generated by the event and the repair of any damage to such property occurring during the event; and
  - (9) A request, if desired, for a formal hearing before the committee.
- (d) If the property is available at the time and place applied for, the Recreation Director shall forward the application to the Committee chairman.
- (e) The Committee shall act upon such application as follows:
- (1) The Committee, based on the application and on other information it deems relevant, may condition its approval on the applicant's deposit of a sum sufficient to cover the cost of anticipated damage and debris removal. If such deposit is required, the committee shall cause an accounting of the use thereof, with the unused portion, to be mailed to the applicant within two weeks after the event;
  - (2) The Committee shall condition its approval on the presentation of a liability insurance binder, covering the event and naming the town as an insured, in an amount sufficient for such purpose. In this regard, the Committee may consult with, and be guided by the advice of, the town's risk manager;

- (3) If special town or service district services are requested, the Committee may condition its approval on a requirement that the cost of such services, as estimated by the town Controller, be paid in advance;
  - (4) The Committee may deny the application because of its potential for off-site impact based on the size of the gathering, noise, timing and other relevant factors; and
  - (5) The Committee shall approve the application, conditioned as set forth in Subsection (2) and, if appropriate, Subsections (1) and (3) above, unless it is denied pursuant to Subsection (4) above.
- (f) The Committee may process any application informally; or either at the request of the applicant or by its own determination process the application formally, in which case the Recreation Director shall determine a date, time and place for a hearing and cause notice thereof to be given to the applicant and [to be] posted at the site of the proposed event and on the Town Clerk's notice board at least five days before such hearing. The hearing shall be conducted with such formality as the committee requires and may include input from neighbors to the proposed site who might be affected by the event. Minutes of the hearing may be kept in lieu of a transcript.
- (g) Notice of the Committee's decision, in all cases, shall be mailed to the applicant within two weeks of the date the application is filed with the Recreation Director.
- (h) Notwithstanding the provisions of Subsections(e) through (g) above, should any application require a special determination, the same shall be forwarded forthwith to the Board of Selectmen for action in accordance herewith. In such event, the board shall, pursuant to Subsection (e) through (g) above, process and decide such application, except that, where a formal hearing is not requested, the board must nonetheless conduct itself pursuant to Article V, Section V-4 of the Charter and its own rules of procedure. The following proposed events shall be deemed to require special determinations:
- (1) Carnivals;
  - (2) Events which, in the opinion of the Recreation Director in consultation with the First Selectman, have the potential for significant off-site impact;
  - (3) Events which, in the opinion of the Recreation Director in consultation with the First Selectman, involve partisan issues; and
  - (4) Events at which alcoholic beverages will be distributed on-site.

[1] *Editor's Note: Former § 13-51, which contained provisions on the use of parks and other City property, adopted 6-12-1972, was repealed 8-15-1995.*

## **Sec. 13-52 through Sec. 13-60. (Reserved)**

**Celebrate Colchester-57 Fest**  
**2018 Report**

1. Review of 2018 Event:

- Estimated 4000 people in attendance
- 46 Vendor Booths (2x more than 2017)
- 7 Food Trucks
- Battle of the Teen Bands- 8 Bands participated
- Inflatables for kids and teens
- Bacon Robotics Demo
- 2 Dance Demonstrations
- Free concert for families
- Fantastic fireworks
- Lifestar landed and stayed for demo for 1.5 hours
- Touch A Truck- Several trucks, antique firetruck, State Police SWAT truck
- Free shuttle bus from Bacon Academy
- \$5 parking at the RecPlex
- 11 volunteers
- Reviews from vendors and volunteers were very positive (to date, negative feedback has not been received)

2. Financial Report:

A. 2017 Expenses: \$18,326    2017 Revenue: \$18,447    2017 Profit: \$121

B. 2018 Expenses: \$10,534    2018 Revenue: \$10,112    2018 Loss: -\$422 (Program Fund)

Revenue:

    \$2067 incomed generated from parking and glow stick sales

    \$5110 received in Donations

    \$1360 in vendor fees

    \$1575 in Food Truck fees

Expenses:

    \$206 Willimantic Waste (Garbage Cans-Dumpster donated)

    \$800 Band (Provided their own sound and lights)

    \$400 Olsen Sanitation (Port O Potties)

    \$347 United Rental (Generator)

    \$456 M&J Bus (Shuttle Bus)

    \$8325 Zambelli Fireworks

## Memo

To: Board of Selectman

From: Tiffany Quinn, Recreation Director

Date: 5/10/18

The Recreation Department would like to offer a Town Employee Discount. We are proposing the following, for a 6<sup>th</sup> month period to determine the effectiveness, financial impact and employee satisfaction.

Non Residents: Waive the \$20 non-resident fee

Residents: Offer a 20% discount on programs

Non-Residents and Residents: 10% off day camp fees (cannot be used with a scholarship or Care 4 Kids, does not include the \$15 administrative fee).

### UPDATE 9/27/18

The Town Employee Discount has been used 3 times in the past 6 month:

3 Weeks of Sports Camp: Discount amount \$67.80

Tennis Lessons: Discount amount \$16.50

CCT Theatre Camp: Discount amount \$21.00

At this point, we would recommend discontinuing the program as it is not used and the implementation in the current software program is difficult and time consuming.



Town of Colchester, CT  
Thursday, September 27, 2018

## Chapter 18. Boards, Committees and Commissions

### Article VIII. Board of Police Commissioners

[Adopted 7-25-1990]

#### § 18-27. Policy Advisory Commission repealed.

The provisions of the ordinance adopted at a Special Town Meeting on August 9, 1985, respecting the creation of a Police Advisory Commission for the Town of Colchester are herewith repealed.

#### § 18-28. Establishment.

Pursuant to the authority granted in C.G.S. § 7-274, a Board of Police Commissioners for the Town of Colchester is herewith established.

#### § 18-29. Membership; terms.

The Commission shall consist of five members who shall be electors of the town and shall be appointed by the Board of Selectmen for terms of three years; provided, however, that two of the original appointees shall be appointed to a term of two years, and the remaining appointee shall be appointed to a term of three years.

#### § 18-30. Authority and responsibility.

- A. The Commission shall have the authority and responsibility for the general supervision and management of the Constables and police officers of the Town of Colchester and the property and equipment used in connection therewith.
- B. As used herein, the term "Constables" shall mean all Constables serving the Town of Colchester in any capacity, whether appointed pursuant to town ordinance as authorized by C.G.S. §§ 9-185 and 9-200 or pursuant to C.G.S. § 7-92 providing for the appointment of Special Constables. The term "police officer" shall mean all full-time town employees hired by the Town of Colchester to serve in the capacity of a police officer.

#### § 18-31. Liaison officer to Division of State Police.

During the period of time the Town of Colchester is obligated to contractual agreements for the services of a Resident Trooper with the Connecticut Department of Public Safety, Division of State Police, a member of the Commission, being duly elected by the majority of the Commission, and appointed by the Board of Selectmen, will serve as a liaison officer for the Town of Colchester (this Commission and Board of Selectmen), to the Department of Public Safety, Division of State Police, for all responsibilities relative to the contractual agreement references to the Chief Executive Officer of the Town of Colchester.

#### § 18-32. Power of appointment, promotion and removal.

[Amended 4-12-2001]

The Commission, pursuant to the authority granted in C.G.S. § 7-276, shall have the sole power of appointment, promotion and removal of the police officers under such regulation as it adopts for the purpose, and such appointees shall hold office during good behavior and until removed for cause upon written charges and after a hearing.

## § 18-33. Regulations and penalties for violation.

[Amended 4-12-2001]

The Commission shall make all needful regulations for the conduct and operation of the Constables and police officers; provided, however, that such regulations shall not be contrary to law and may prescribe suitable penalties for the violation of any such regulation, including suspension or removal from office of any Constable, police officer or member.

## § 18-34. Investigation of complaints; hearings.

Upon receipt of a complaint as to the activities of any Constable, the Commission shall undertake such investigation as it considers appropriate and, upon the conclusion thereof, make such recommendation to the First Selectman as it deems to be in the best interest of the Town of Colchester concerning suitable action with respect to suspension and or removal from office. In making such investigation, the Commission may, in its discretion, conduct formal or informal hearings.

## § 18-35. Election of officers; meetings; filling of vacancies.

Pursuant to C.G.S. § 7-275, the Commission shall elect one of its number to be Chair and one to be clerk and shall hold regular meetings and keep records of the same. Meetings shall be held upon the call of the Chair or of the majority of the members on the Board. A majority of all members of the Board shall constitute a quorum. In the event of any vacancy upon the Board, the Board of Selectmen shall have the authority by majority vote to fill such vacancy until the expiration of the term.

## § 18-36. Compensation; reimbursement for expenses.

Commissioners shall be sworn to the faithful performance of their duties and shall serve without compensation, but their actual expenses and disbursements incurred in the performance of their duties shall be paid from the town treasury.

## § 18-37. Terms of office related to particular events.

None of the provisions of this article shall be construed to affect the authority of the First Selectman with respect to those Special Constables appointed pursuant to C.G.S. § 7-92 for a set term of office related to a particular public celebration, gathering, riot or unusual excitement or pursuant to the provisions of said statute.

## § 18-38. Applications to fill vacancies in office of Constable or police officer.

Whenever there shall be a vacancy in the office of Constable or police officer, any person who desires to be considered for appointment as a Constable or police officer shall submit an application to the Commission. The Commission shall review all applications submitted to it, provide the required testing procedures as determined by the Commission and make such recommendations to the first Selectman concerning such applicants for the position of Constable as it may deem necessary in the best interests of the Town of Colchester. The Commission shall retain its sole power of appointment of police officers and will recommend the appointment of a Constable

to the First Selectman pursuant to the town ordinance concerning appointment of Constables and or Special Constables as provided for in C.G.S. § 7-92.

## § 18-39. Transfer of funds for operation.

To the extent permitted by law, the enactment of this article shall serve as formal authorization for the transfer of the funds allocated in the 1989-1990 town budget for the operation of the Colchester Police Advisory Commission, constabulary and or police department to the Colchester Board of Police Commissioners established by this article.

Town of Colchester, CT  
Thursday, September 27, 2018

## Chapter 18. Boards, Committees and Commissions

### Article III. Parks and Recreation Commission

[Adopted 4-17-1962; amended 5-15-1972; 3-30-1982; 3-28-1996]

#### § 18-9. Creation; membership.

- A. There is created in the Town of Colchester a Parks and Recreation Commission which shall consist of eight members and two alternates appointed by the Board of Selectmen.
- B. Members shall serve for terms of four years. Members first appointed shall serve as follows. Alternates shall serve for terms of three years.  
[Amended 3-2-1998]
  - (1) Two members for terms of one year.
  - (2) Two members for terms of two years.
  - (3) Two members for terms of three years.
  - (4) Two members for terms of four years.
  - (5) Two alternates for terms of three years.
- C. Thereafter, members shall be appointed annually to serve for four years. In the event of any vacancy, the Board of Selectmen shall fill the vacancy for the unexpired portion of the term. Members of the Board of Selectmen and the Superintendent of Schools shall be ex-officio members of the Commission.
- D. Terms of present Board. The terms of all of the present Board members shall expire on the first Wednesday after the first Monday of November 1972.
- E. Initial appointments. The Board of Selectmen at some time prior to the first Wednesday after the first Monday of November 1972 shall appoint the members of said Commission.

#### § 18-10. Powers and duties.

[Amended 6-1-2017]

- A. The Parks and Recreation Commission:
  - (1) Shall have the power to equip, operate, supervise and maintain parks, playgrounds, gymnasiums, public baths, swimming pools or recreation centers on or in a public ground or building in said town which the Board of Selectmen may, from time to time, provide, acquire, authorize, offer, designate or set apart for such use and, with the consent of the Board of Education, to establish and carry on playgrounds and recreation activities on the school grounds and in the school building of said town.

- (2) May take charge of and use any grounds, places, buildings or facilities which may be offered either temporarily or permanently by individuals or corporations for playground or recreational purposes.
  - (3) May receive, on behalf of the Town, donations and gifts from individuals, corporations or others for the equipment, improvements, maintenance or supervision of those facilities as described in Subsection A above.
  - (4) May establish and provide for the collection of fees for the use of those facilities as described in Subsection A above, as authorized and approved by the Board of Selectmen.
- B. Any funds that may be received as described in Subsection A(3) or (4) above shall be deposited in bank accounts maintained by the Town, and recorded and accounted for in separate and distinct accounts within the Capital Fund of the Town. Such funds may not be used to support the annual operating budget of the Town.<sup>[1]</sup>

[1] *Editor's Note: An unnumbered paragraph providing for the amendment of the ordinance to change "Board" to "Commission" and "Board of Recreation" to "Parks and Recreation Commission," which immediately followed this section, was repealed 4-12-2001.*

## § 18-11. Payment of expenses incurred for equipment and improvements.

[Amended 6-1-2017]

The expenses incurred for equipment and improvements of such facilities as described in § 18-10A(1) shall be payable from users' fees, private gifts or from such appropriations as may be made by the proper municipal authority from the current funds of the Town of Colchester. The funds so received or appropriated shall be recorded and accounted for in separate and distinct accounts within the Capital Fund of the Town to be expended for the purposes herein enumerated.

## § 18-12. Commissioner qualifications and duties; compensation; meetings; quorum; removal from office.

- A. Terms shall commence on the date of appointment.
- B. All Commission members shall be resident electors of Colchester at the time of appointment. The establishment of residence outside of Colchester automatically terminates said appointment.
- C. All Commission members shall serve without compensation, unless otherwise provided herein.
- D. All Commission members shall serve full terms or until their successors shall have been appointed and qualified.
- E. The Commission shall meet at least once a month.
- F. A majority of Commission members shall constitute a quorum; however, no business may be transacted unless a majority of the entire membership approves.
- G. Any Commission members may be removed only for malfeasance in office, neglect of duty, incompetency or other just cause, but shall not be removed upon any charge preferred against the member without due notice and hearing by the Board of Selectmen. When any such charge shall have been preferred, the Commission members complained of shall have a right to be heard, with witnesses and by counsel, and such hearing may be adjourned from time to time as said Board of Selectmen may direct.
- H. Unless otherwise stated herein, the Commission shall elect its presiding officers.

- I. Special meetings of the Commission may be called by its presiding officer at any time upon reasonable notice to the members and shall be called at any time upon written request of a majority of the members of said Commission.
  
- J. The duties of each Commission member shall be those prescribed by charter, ordinance and statute.

**ARTICLE II. NOISE****Sec. 11-41. 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, 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. 11-42. Definitions.**

When used in this chapter, the terms below shall have the following meaning:

*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*. noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

*Business zone*. Those areas so designated for commercial use under the zoning regulations of the town.

*Chief of police*. The first selectman of the town or his or her designee, provided that, should the town establish a town police force, the first selectman shall designate the chief of the town's police force to enforce and administer the provisions of this ordinance.

*Construction*. 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.

*Construction equipment*. Any equipment or device operated by fuel or electric power used in construction or demolition.

*Continuous noise*. Ongoing noise, the intensity of which remains at a measurable level (which may vary) without interruption over an indefinite period or a specified period of time.

*Daytime hours*. 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*. A unit of measurement of the sound level, the symbol for which is dB.

*Demolition*. Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Emergency*. Any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

*Emergency vehicle*. Any motor vehicle authorized by any local authority to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.

*Excessive noise*. Any sound, the intensity of which exceeds the standards set forth in section 11-45.

*Impulse noise*. 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).

*Industrial zone*. Those areas designated for industrial use under the zoning regulations of the town.

*Intrusion alarm*. A device with an audible signal and which, when activated, indicates an intrusion by an unauthorized person.

*Motor vehicle.* A vehicle as defined in Subdivision (47) of Section 14-1, Connecticut General Statutes, Revision of 1958, as amended.

*Nighttime hours.* 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.* The sound-pressure level as measured with a sound-level meter.

*noise vel, A-weighted .* The sound-pressure level as measured with a sound-level meter using the A-weighting network. The sound level is designated dBA.

*Octave band sound-pressure level.* The sound-pressure level for the sound contained within the specified preferred octave band, stated in dB, as described in ANSI S1.6-1984 (R 1994).

*One-third octave band sound-pressure level.* The sound-pressure level for the sound contained within the specified preferred one-third octave band, stated in dB, as described in ANSI S1.6-1984 (R 1994).

*Peak sound-pressure level (SPL) .* The absolute maximum value of the instantaneous sound pressure level occurring in a specified time period.

*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, owned or controlled by a person. A noise receptor's "premises" shall include all publicly dedicated street and highway rights-of-way, road rights-of-way and waters of the state lying between the property lines of the noise receptor and a noise emitter whose property line would abut the noise receptor's but for such street, right-of-way, or waters of the state.

*Prominent discrete, tone.* The presence of acoustic energy concentrated in a narrow frequency range, including, but not limited to, an audible tone, which produces a one-third octave sound-pressure level greater than that of either adjacent one-third octave, and which exceeds the arithmetic average of the two adjacent one-third octave band levels by an amount greater than that shown below, for the one-third octave band containing the concentration of acoustic energy.

1/3 Octave Band Center Frequency (Hz)	average exceedence (dB)
100	16
125	14
160	12
200	11
250	9
315	8
400	7
500	6
630	6
800	5
1000	4



1250	4
1600	4
2000	3
2500	3
3150	3
4000	3
5000	4
6300	4
8000	5
10000	6

*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 and controlled by another person and which separates real property from the public right-of-way.

*Public right-of-way.* Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a government entity.

*Residential zone.* Those areas designated for residential use in the zoning regulations of the town.

*Sound .* A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alteration in pressure or position of 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 analyzer.* A device, generally used in conjunction with a sound level meter, for measuring the sound-pressure level of a noise as a function of frequency, expressed in hertz (Hz), in octave bands, one-third octave bands or other standard ranges. The sound analyzer shall conform, as a minimum, to Type E, Class II, as specified in ANSI S1.11-1986 (R 1993).

*Sound-level meter.* An instrument used to measure sound levels. A sound-level meter shall conform, at a minimum, to the American National Standards Institute operation specifications for sound level meters S1.4-1983 (R 1994).

*Sound-pressure level, A-weighted.* The A-weighted sound-pressure level, expressed in decibels (dBA), measured on a sound-level meter.

*Sound-pressure level (SPL) .* Equals twenty (20) times the logarithm to the base ten of the ratio of the sound pressure in question to the standard reference pressure of twenty (20) micro-Pascals, expressed in decibel (dB) units.

Sec. 11-43. noise measurement procedures.

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

(1) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.

- (2) Instruments used to determine sound-level measurement shall be sound-level meters and analyzers as defined by this chapter.
- (3) The following steps should be taken when preparing to take sound-level measurements.
- (a) The instrument manufacturers specific instructions for the preparation and use of the instrument shall be followed.
- (b) Measurements to determine compliance with section 11-45 shall be taken at a point that is located more or less one (1) foot beyond the property line of the noise emitters premises and within the noise receptors premises.

Sec. 11-44. Classification of noise zones.

noise zones within the town 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 section is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use.

Zone	Use	Current Zoning*
A	Residential	MR, FR
B	Commercial	C-1, C-2
C	Industrial	HI, LI, DDD

**Note:** \*Based on the zoning regulations and zoning map of the Town of Durham.

Sec. 11-45. noise zone standards.

- (a) A-weighted noise level standards.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the property lines of his/her premises in excess of the following noise levels:

EMITTER noise ZONE	Zone Class of noise Receptor			
	A-Day (dBA)	A-Night (dBA)	B (dBA)	C (dBA)
Class A	55	45	55	62
Class B	55	45	62	62
Class C	61	51	66	70

- (b) Octave band noise standards.

- (1) Class A receptor, daytime.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the property lines of his/her premises, to a Class A receptor noise zone during daytime hours, in excess of the following noise levels:

Octave Band Center	Octave Band Sound-Pressure Levels (dB) Emitted to Class A Receptor by Emitters in the Following Zones:		
Frequency (Hz)	Class C	Class B	Class A

31.5	75	72	72
63	74	71	71
125	69	65	65
250	64	57	57
500	58	51	51
1000	52	45	45
2000	47	39	39
4000	43	34	34
8000	40	32	32

(2) Class A receptor, nighttime.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the property lines of his/her premises, to a Class A receptor noise zone during nighttime hours, in excess of the following noise levels:

Octave Band Center	Octave Band Sound-Pressure Levels (dB) Emitted to Class A Receptor by Emitters in the Following Zones:		
Frequency (Hz)	Class C	Class B	Class A
31.5	69	63	63
63	67	61	61
125	62	55	55
250	54	47	47
500	47	40	40
1000	41	35	35
2000	36	30	30
4000	32	25	25
8000	32	25	25

(3) Class B or Class C Receptor, at anytime.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the property lines of his/her premises, to a Class B or Class C receptor noise zone at anytime, in excess of the following noise levels:

Octave Band Center	Octave Band Sound-Pressure Levels (dB) Emitted to Class B or Class C Receptor by Emitters in the Following Zones:		
Frequency (Hz)	Class C	Class B	Class A

31.5	80	79	72
63	79	78	71
125	74	72	65
250	69	64	57
500	63	58	51
1000	57	52	45
2000	52	46	39
4000	48	41	34
8000	45	39	32

(c) Impulsive noise standards.

(1) Class A receptor, nighttime.

It shall be unlawful for any person to emit or cause to be emitted any impulse noise beyond the property lines of his/her premises, to a Class A receptor noise zone during nighttime hours, in excess of 80 dB peak sound pressure level.

(2) Any receptor, at any time.

It shall be unlawful for any person to emit or cause to be emitted any impulse noise beyond the property lines of his/her premises, to any receptor noise zone at any time, in excess of 100 dB peak sound pressure level.

(d) Prominent discrete tone noise standards.

It shall be unlawful for any person to emit or cause to be emitted any continuous noise beyond the property lines of his/her premises, which possesses one or more audible prominent discrete tones, in excess of the following noise levels:

EMITTER noise ZONE	Receptor C (dBA)	noise B (dBA)	Zone Class A-Day (dBA)	A-Night (dBA)
Class A	57	50	50	40
Class B	57	57	50	40
Class C	65	61	56	46

Sec. 11-46. Delivery trucks.

In addition to the noise prohibitions in Section 11-45, no person shall unload or cause to be unloaded delivery trucks within two hundred (200) feet of a residential district between one (1) hour after sundown and 7:00 a.m.

Sec. 11-47. Exceptions.

(a) This chapter shall not apply to noise emitted by or related to:

(1) Natural phenomena.

(2) Any bell or chime from any building clock, school or church.

- (3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system in an emergency situation.
- (4) A public emergency sound system.
- (5) Warning devices required by the occupational safety and health administration or other state or federal safety regulations.
- (6) Farming equipment or farming activity.
- (7) Emergency work or sounds from emergency vehicles responding to an emergency.
- (b) The following shall be exempt from this chapter, subject to special conditions as specified.
  - (1) noise generated by any construction equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in Section 11-5 of this chapter.
  - (2) noise from domestic power equipment during daytime hours.
  - (3) noise from demolition work conducted during daytime hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this chapter.
  - (4) noise created by aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
  - (5) 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 fireworks displays, provided that noise discharged from exhausts is adequately muffled to prevent food and/or explosive noise there from.
  - (6) noise created by blasting other than that conducted in connection with construction activities, 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, and provided that a permit for such blasting has been obtained from local authorities.
  - (7) noise created by leaf, refuse and solid waste collection, provided that the activity is conducted during daytime hours.
  - (8) noise created by a fire or intrusion alarm, from the time of activation of the audible signal 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.
  - (9) noise generated by engine-powered or motor-driven lawn care or maintenance equipment on Class A property between the hours of 8:00 a.m. and 9:00 p.m., provided that noise discharged from exhausts is adequately muffled to prevent loud noise therefrom.
  - (10) Public-address systems used in assemblies on public space or for election campaign activities, during daytime hours only.
  - (11) Snow removal equipment provided the equipment is maintained in good repair so as to minimize noise and that noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noise therefrom.

Sec. 11-48. Vehicle noise restrictions.

The following activities are prohibited:

- (1) *Motor vehicle noise.* All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels set forth in the regulations authorized in C.G.S. § 14-80a.
- (2) *Motor vehicle sound-amplifying devices.* No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in section 11-45.

(3) *Unregistered recreational vehicle noise.* No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operations of an unregistered recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this chapter when the noise so generated exceeds the noise level standards set forth in section 11-45.

Sec. 11-49. Violations and penalties.

Any person in violation of any of the sections of this chapter shall be fined in an amount not to exceed one hundred (\$100.00) dollars. Each day that such violation continues after the time for correction of the violation given in an order shall constitute a separate violation subject to a fine not to exceed one hundred (\$100.00) per day.

Sec. 11-50. Variances.

(a) Any person living or doing business in the town may apply to the chief of police for a variance from one (1) or more of the provisions of this chapter which are more stringent than the state department of environmental protection regulations for the control of noise, provided that the applicant supplies all of the following information to the chief of police at least thirty (30) days prior to the start of the time period for which the variance is sought:

- (1) The location and nature of the activity for which the variance is sought.
- (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.

(b) No variance from this chapter shall be granted unless it has been demonstrated that:

- (1) The proposed activity will not violate any provisions of the state department of environmental protection noise regulations;
- (2) The noise levels generated by the proposed activity will not constitute a danger to the public health; and
- (3) Compliance with this ordinance constitutes an unreasonable hardship on the applicant.

(c) The application for a variance shall be reviewed and approved or rejected at least seven (7) days prior to the start of the period for which the variance is sought. Approval or rejection shall be made in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection. The chief of police may attach reasonable conditions to any variance granted including, without limitation, the requirement that noise control measures be taken by the applicant to minimize noise during the period of the variance, and that the applicant submit reports relating to noise and to compliance with any other conditions under which the variance was granted.

(d) Failure to rule on an application within the designated time shall constitute approval of the variance.

Sec. 11-51. Conflict with other provisions of law.

All provisions of the zoning regulations of the town 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 chapter shall be held to make the same unconstitutional or be superseded by any state or federal

law or regulation, this chapter shall not thereby be invalidated, and the remainder of this chapter shall continue in effect.

Sec. 11-52. Administration.

- (a) Unless otherwise stated, all notices and fines required or permitted by this ordinance shall emanate from the chief of police. Fines shall be paid to the chief of police.
- (b) Interest shall accrue at the rate of one and one-half (1.5) percent per month on all fines outstanding for periods in excess of thirty (30) days.
- (c) Fines and interest payable under this section shall be deposited into the town's general fund.

Sec. 11-53. Appeal.

- (a) The board of selectmen shall serve as an appeals board for fines imposed under this section.
- (b) Whenever a fine is imposed under this section, the person fined, may, within ten (10) days from the date of the noise emission appearing on the notice of the fine, appeal by filing a written notice of appeal with the first selectmen. The board of selectmen shall begin hearing the appeal no later than thirty (30) days from its receipt by the first selectman. The board of selectmen shall render a written decision on the appeal within seven (7) days of conclusion of the hearing. The filing of an appeal shall stay collection of any fine imposed until such time as a decision is rendered on the appeal.
- (c) The board of selectmen may designate a panel of three (3) persons to serve as an appeal board for any fine or fines appealed from under this section 11-53. Any such panel shall follow the schedule in subsection (b) for hearing and deciding appeals.

Sec. 11-54. Enforcement.

- (a) The board of selectmen may choose to enforce the provisions of this ordinance by citation and hearing as permitted by C.G.S. 7-152(c). The citation hearing procedure will then serve as the appeals procedure in lieu of that set forth in section 11-53.
- (b) The first selectman is authorized to institute civil or criminal proceedings as necessary to enforce the provisions of this section.

**Chapter 12 NOISE****Sec. 12-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Ambient noise* or *background noise* means 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 ninety (90) percent of the time in which the measurement is taken.

*Commercial zone* means commercial district, commercial boating, turnpike interchange commercial district, as defined in the zoning regulations of the town and all uses associated therewith either permitted as a right or as a special use.

*Construction* means 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.

*Construction equipment* means any equipment or device operated by fuel or electric power used in construction or demolition work.

*Daytime hours* means the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours of 9:00 a.m. through 10:00 p.m. on Sundays.

*Decibel* means logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Domestic power equipment* means, but is 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.

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

*Emergency vehicle* means any motor vehicle authorized by the town to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.



*Emergency work* means 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.

*Impulse noise* means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

*Industrial zone* means industrial district as defined by the zoning regulations of the town.

*Motor vehicle* means that term as defined in section 14-1(26) of the General Statutes.

*Muffler* means a device for abating sounds such as escaping gases.

*Nighttime hours* means 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.

*Noise* means any sound, the intensity of which exceeds the standards set forth in section 12-5(b).

*Noise level* means 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.

*Premises* means 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 publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

*Property line* means 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.

*Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

*Recreational vehicle* means any internal combustion engine-powered vehicle which is being used for recreational purposes.

*Residential zone* means 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 and all uses associated therewith either permitted as a right or as a special use.

*Sound* means 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* means 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 Sl. 4--1971 (Type S2A).

*Sound pressure level* means 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 (20) micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/meter<sup>2</sup>), and is expressed in decibels (dB).

### **Sec. 12-3. 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 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. 12-4. Noise level measurement procedures.**

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.
- (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 placed so as not to be interfered with by individuals conducting the measurements.

e. Measurements shall be taken at a point that is located about one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

(4) The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled Connecticut Noise Survey Data Form No. 101.

**Sec. 12-5. Noise levels.**

(a) *Generally.* 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 section.

(b) *Noise level standards.*

(1) No person in a residential zone shall emit noise beyond the boundaries of his 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

(2) No person in a commercial zone shall emit noise beyond the boundary of his 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
Commercial	62 dBA	62 dBA	55 dBA	45 dBA

(3) No person in an industrial zone shall emit noise beyond the boundary of his premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential/ Day	Residential/Night
Industrial	70 dBA	66 dBA	61 dBA	51 dBA

(c) *High background noise levels and impulse noise.*

(1) 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 five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this section does not decrease the permissible levels of other sections 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 the nighttime to any residential noise zone.

(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 to any zone.

(d) *Exclusions.* These levels shall not apply to noise emitted by or related to:

(1) Natural phenomena;

(2) Any bell or chime from any building clock, school or church;

(3) 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;

(4) Warning devices required by OSHA or other state or federal safety regulations;

(5) Farming equipment or farming activity.

(e) *Exemptions.* The following shall be exempt from these regulations subject to special conditions as spelled out:

(1) Noise generated by any construction equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in subsection (b) of this section;

(2) Noise created as a result of or relating to an emergency;

- (3) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours;
- (4) Noise from snow removal equipment;
- (5) Noise from demolition work conducted during daytime hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation;
- (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration;
- (7) 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;
- (8) 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;
- (9) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.

**Sec. 12-6. Prohibited noise activities.**

The following activities are prohibited:

- (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.
- (2) *Truck idling.* No person shall operate an engine or any standing motor vehicle with a weight in excess of ten thousand (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.
- (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 is through a muffler as defined by section 12-2 or through an apparatus providing equal noise reduction.

**Sec. 12-7. Motor vehicle noise.**

(a) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels set forth in the regulations authorized in section 14-80a of the General Statutes.

(b) No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in section 12-5(b).

**Sec. 12-8. Recreational vehicle noise.**

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 chapter when the noise so generated exceeds the noise level standards set forth in section 12-5(b).

**Sec. 12-9. Inspections.**

(a) For the purpose of determining compliance with the provisions of this chapter, the board of selectmen is 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. If 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 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.

(b) It shall be unlawful for any person to refuse to allow or permit the board of selectmen free access to any premises when the board of selectmen is acting in compliance with a warrant for inspection and order issued by the appropriate court.

(c) 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.

(d) 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 duties under this section.

**Sec. 12-10. Penalties.**

Any person in violation of any of the provisions of this chapter shall be deemed guilty of a violation and upon conviction thereof shall be fined in an amount not to exceed twenty-five dollars (\$25.00). 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 the violation continues, such fine not to exceed four hundred dollars (\$400.00) per day.

**Sec. 12-11. Variance and contracts.**

(a) *Variances.*

(1) Any person living or doing business in the town may apply to the board of selectmen for a variance from one (1) or more of the provisions of this chapter, which are more stringent than the state department of environmental protection regulation 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 the activity:

- a. The location and nature of the activity;
- b. The time period and hours of operation of the activity;
- c. The nature and intensity of the noise that will be generated;
- d. Any other information required by the board of selectmen.

(2) No variance from this chapter shall be issued unless it has been demonstrated that:

- a. The proposed activity will not violate any provisions of the state department of environmental protection regulations.
- b. The noise levels generated by the proposed activity will not constitute a danger to the public health.
- c. Compliance with the regulations constitutes an unreasonable hardship on the applicant.

(3) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of the activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

(4) Failure to rule on the application in the designated time shall constitute approval of the variance.

(b) *Contracts.* Any written agreement, purchase order or contract whereby the town 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 chapter will be operated, constructed, conducted or manufactured without violating the provisions of this chapter.

**Sec. 12-12. Effect of zoning regulations.**

All provisions of the zoning regulations of the town which are more stringent than those set forth in this chapter shall remain in force.



**ARTICLE IV. NOISE****Sec. 38-101. Declaration of policy**

Excessive noise must be controlled by the town to protect, preserve and promote the public health, safety and welfare. The town council recognizes the fact that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety or welfare.

**Sec. 38-102. Definitions.**

As used in this article, the following words and terms shall have the meanings hereinafter set forth:

*Background noise* means 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 percent of the time (L 90 ) in which the measurement is taken.

*Business zone* means those areas so designated under the zoning regulations of the town.

*Chief of police* means the duly appointed chief of police of the town or his designee.

*Construction* means 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.

*Day-time hours* means 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* means a unit of measurement of the sound level, the symbol for which is dB.

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

*Excessive noise* means any sound, the intensity of which exceeds the standards set forth in section 38-106.

*Impulse noise* means sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

*Industrial zone* means those areas so designated under the zoning regulations of the town in appendix B.

*Intrusion alarm* means a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

*L 90* means the A-weighted sound pressure level exceeded 90 percent of the time period during which measurement was made.

*Motor vehicle* means a vehicle as defined in G.S. § 14-1(47).

*Nighttime hours* means 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* means 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* means 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* means any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

*Property maintenance equipment* means 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* means 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* means all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

*Recreational vehicle* means any internal combustion engine powered vehicle which is being used for recreational purposes.

*Residential zone* means those areas so designated under the zoning regulations of the town.

*Sound* means 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* means 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* means 20 times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of 20 micropascals, expressed in decibels (dB) units.

*Town manager* means the duly appointed town manager of the town or his designee.

**Sec. 38-103. Exclusions.**

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

- (1) Natural phenomena.
- (2) The unamplified sound made by any wild animal.
- (3) A bell or chime from any building clock, school or church.
- (4) A public emergency sound signal.
- (5) Warning devices required by OSHA or other state or federal safety regulations.
- (6) Farming equipment or farming activity.
- (7) An emergency.
- (8) Snow removal.

**Sec. 38-104. Exemptions.**

The following shall be exempt from this article subject to the special conditions noted:

- (1) Noise created by the operation of properly maintained and properly functioning property maintenance equipment during day-time hours.
- (2) Noise generated by any construction equipment operated during day-time hours.
- (3) 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.
- (4) 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.
- (5) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.
- (6) 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 minutes when such alarm is attached to a vehicle or 30 minutes when attached to any building or structure.

(7) Noise created by public facility maintenance during day-time hours.

**Sec. 38-105. Noise level measurement procedures**

For the purpose of determining noise levels as set forth in this article, and as set forth in Connecticut Regulations G.S. § 22a-69-4, the following procedures shall be applicable:

(1) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.

(2) Instruments used to determine sound level measurements shall be sound level meters as defined in this article.

(3) The following steps shall be taken 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. Measurements to determine compliance with section 38-106, in those cases where a receptor is an abutter to the emitter, shall be taken at a point that is located more or less 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 38-106 shall be taken at a point that is located more or less one foot within the boundary of the receptor's premises.

c. 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.

(4) 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.

(5) The director of planning and community 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 article and to assist potential emitters in their efforts to comply with the standards set forth herein.

**Sec. 38-106. 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 article.

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(b) *Noise level standards.* No person shall emit noise exceeding the levels stated herein.

Zone in Which Emitter is Located	Zone in Which Receptor is Located>			
	Industrial (dBA)	Business (dBA)	Residential Day-time Hours (dBA)	Residential Night-time Hours (dBA)
Industrial	70	66	61	51
Business	62	62	55	45
Residential	62	55	55	45

(c) *Background noise and impulse noise.*

(1) 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 levels by five dBA, provided that no source subject to this article shall emit noise in excess of 80 dBA at any time, and provided that this subsection shall not be interpreted as decreasing the noise level standards of this article.

(2) No person shall cause or allow the emission of impulse noise in excess of 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 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 article shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith:

Allowable Levels Above Standards (dBA)	Time Period of Such Levels (Minutes/Hour)
3	15
6	7
8	5

(e) *Existing noise sources.* Existing noise sources constructed between January 1, 1960, and June 15, 1978, shall be provided a permanent five 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 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 article.

(g) *Recreational vehicle noise.* 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 article when the noise so generated exceeds the noise level standards in this article.

(h) *Existing state law.* Nothing in this article 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. 38-107. Enforcement.**

Violations of this article shall be enforced by the chief of police. The chief of police may develop procedures consistent with this article, including, but not limited to: Metering, training, and issuance of violation notices.

#### **Sec. 38-108. Violations and penalties.**

(a) Any person found to be in violation of any sections of this article 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 chief of police shall refer the person found to be in violation to the director of planning and community 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) Any person found to be in violation of any sections of this article: After the grace period referred to in subsection (a); or, who is unwilling to correct the violation; or, for the second or successive times, shall be fined in an amount not to exceed \$50.00 per day that such violation continues. The chief of police shall continue to meter the violation.

(c) In the event that the violation is not corrected and/or the fine is not paid, the chief of police may request that the town attorney determine appropriate legal or equitable action or proceeding before the superior court against the person or persons responsible for the violation. The remedies sought may include, but are not limited to, judicial enforcement of the fines and/or injunctive relief.

**Sec. 38-109. Variance.**

(a) Any person residing or doing business in the town may apply to the town manager for a variance from one or more of the provisions of this article which are more stringent than the state 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 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) Any other information required by the town manager.

(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 state 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 article constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at least five 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. 38-110. Zoning regulations.**

All provisions of the zoning regulations (in appendix B) which are more stringent than those set forth herein, shall remain in force

**ARTICLE V. NOISE****Sec. 16-101. 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, safety or welfare or degrade the quality of their lives. This article is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of the city of New Britain through the reduction, control and prevention of noise.

**Sec. 16-102. Definitions.**

When used in this article, the terms below shall have the following meaning:

*Audible:* Sound having sufficient energy as to be heard by a natural person.

*Background noise:* Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

*Business zone:* Those areas so designated under business zone of the zoning ordinances of the City of New Britain.

*Chief of police:* The chief of police of the City of New Britain or a duly authorized officer subject to his/her order.

*Construction:* 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.

*Construction equipment:* Any equipment or device operated by fuel or electric power used in construction or demolition.

*Daytime hours:* 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:* A unit of measurement of the sound level, the symbol for which is "db."

*Demolition:* Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Emergency vehicle:* Any motor vehicle authorized by any local authority to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.



*Emergency work:* 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 changes.

*Excessive noise:* Any sound, the intensity of which exceeds the standard set forth in section 16-105.

*His/her premises:* Premises owned, controlled or otherwise occupied or used by the person in question.

*Impulse noise:* Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

*Industrial zone:* Those areas so designated under the industrial zone of the zoning ordinances of the City of New Britain.

*Intrusion alarm:* A device with an audible signal and which, when activated, indicates an intrusion by an unauthorized person.

*Motor vehicle:* A vehicle as defined in subdivisions (30) and (31) of section 14-1 of the Connecticut General Statutes, revision of 1958, as amended.

*Nighttime hours:* 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:* The sound-pressure level as measured with a sound-level meter using the A-weighting network. The sound level is designated "db(A)" or "db(a)."

*Person:* Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administration subdivision of the state or other legal entity of any kind.

*Premises:* Any building, structure, land or portion thereof, including all appurtenances, owned, controlled or otherwise occupied or used 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 and controlled by another person and which separates real property from the public right-of-way.

*Public right-of-way:* Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad, or similar place which is owned or controlled by a government entity.

*Residential zone:* Those areas so designated under residential zone of the zoning ordinances of the City of New Britain.

*Sound:* A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alteration in pressure or position of particle 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 used to measure sound levels. A "sound-level meter" shall conform, at a minimum, to the American National Standards Institute operation specifications for sound level meters S1.4-1971 (Type S2A).

*Sound-pressure level:* The A-weighted sound-pressure level, expressed in decibels (dBA), measured on a sound-level meter.

**Sec. 16-103. Noise measurement procedures.**

For the purpose of determining noise levels as set forth in this article, the following guidelines 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 measurement shall be sound-level meters as defined by this article.
- (c) The following steps should 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 16-105 shall be taken at a point that is located more or less one foot beyond the property line of the noise emitter's premises and within the noise receptor's premises.

**Sec. 16-104. Classification of noise zones.**

Noise zones within the City of New Britain shall be classified as to zoning applicable for the parcel or tract of land and the surrounding parcels or tracts. Noise zones specified herein shall correspond to the following zoning descriptions in the zoning ordinances and zoning map of the City of New Britain.

Zone	Actual or Intended Use	Current Zoning**
A	Residential	S-1, S-2, S-3, T, A-1, A-2, A-3, RO

B	Commercial	OP, B-1, B-2, B-3, B-4, TP
C	Industrial	I-1, I-2, I-3

\*\*Note: Based on the zoning ordinances and zoning map of the City of New Britain.

**Sec. 16-105. Noise standards.**

(a) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the property lines of his/her premises in excess of the following noise levels:

<i>Emitter Noise Zone</i>	<i>Receptor Noise Zone Class</i>			
	<i>C</i>	<i>B</i>	<i>A-Day</i>	<i>A-Night</i>
Class C	70 dBA	66 dBA	61 dBA	51 dBA
Class B	62 dBA	62 dBA	55 dBA	45 dBA
Class A	62 dBA	55 dBA	55 dBA	45 dBA

(b) Notwithstanding subsection (a) of this section, it shall be unlawful for any person to emit or cause to be emitted from a residence any noise that is audible more than three hundred (300) feet beyond the property lines of his/her premises during daytime hours or more than one hundred (100) feet beyond the property lines of his/her premises during nighttime hours.

**Sec. 16-106. Exceptions.**

(a) This article shall not apply to noise emitted by or related to:

- (1) Natural phenomena.
- (2) Any bell or chime from any building clock, school, or church.
- (3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system in an emergency situation.
- (4) A public emergency sound system.
- (5) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (6) Farming equipment or farming activity.

- (7) An emergency.
- (8) Snow removal equipment and sanding and sweeping of streets, sidewalks and parking lots.
- (b) The following shall be exempt from this article, subject to special conditions as specified:
  - (1) Noise generated by any construction equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in section 16-105 of this article.
  - (2) Noise from domestic power equipment during daytime hours.
  - (3) Noise from demolition work conducted during daytime hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this article.
  - (4) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
  - (5) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, concerts and fireworks displays.
  - (6) 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 and provided that a permit for such blasting has been obtained from local authorities.
  - (7) Noise created by leaf, refuse and solid waste collection, provided that the activity is conducted during daytime hours.
  - (8) Noise created by fire or intrusion alarm shall, from time of activation of the audible signal, emit 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.
  - (9) Noise generated by engine-powered or motor-driven lawn care or maintenance equipment on Class A property between the hours of 8:00 a.m. and 9:00 p.m., provided that noise discharged from exhausts is adequately muffled to prevent loud noises therefrom.
  - (10) Public-address systems used in election campaign activities during daytime hours only.

**Sec. 16-107. Vehicle noise restrictions.**

The following activities are prohibited:

(a) *Motor vehicle noise.* All motor vehicles operated within the limits of the City of New Britain shall be subject to the noise standards and decibel levels set forth in the regulations authorized in section 14-80a of the Connecticut General Statutes.

(b) *Motor vehicle sound-amplifying devices.* No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in subsection (a) of section 16-105.

(c) *Unregistered recreational vehicle noise.* No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of an unregistered recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article when the noise so generated exceeds the noise level standards set forth in subsection (a) of section 16-105 or is audible more than one hundred (100) feet from said vehicle.

(d) Notwithstanding subsections (a), (b) and (c) of this section, it shall be unlawful for any person to emit or cause to be emitted from a motor vehicle any noise other than the noise from the vehicle's engine that is audible more than three hundred (300) feet from said vehicle during daytime hours or more than one hundred (100) feet from said vehicle during nighttime hours.

**Sec. 16-108. Penalties for offenses.**

(a) Any person in violation of any of the sections of this article shall be fined in an amount not to exceed fifty dollars (\$50.00). Each day that such violation continues after the time for correction of the violation given in an order shall constitute a continuing violation, and the amount of the fine for each day after the first shall be ninety-nine dollars (\$99.00).

(b) Notwithstanding subsection (a) of this section, any person in violation of section 16-107 of these ordinances shall be fined ninety-nine dollars (\$99.00) per instance of violation.

**Sec. 16-109. Variances.**

(a) Any person living or doing business in the City of New Britain may apply to the board of police commissioners for a variance of one or more of the provisions of this article which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplies all of the following information to the chief of police at least twenty (20) days prior to the start of the activity for which the variance is sought:

- (1) The location and nature of the activity;
- (2) The time period and hours of operation of said activity; and
- (3) The nature and intensity of the noise that will be generated.

(b) No variance from this article shall be granted 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 this article constitutes an unreasonable hardship on the applicant.
- (c) The application for a variance shall be reviewed and approved or rejected at least five (5) days prior to the start of the proposed activity. Approval or rejection shall be made in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.
- (d) Failure to rule on an application within the designated time shall constitute approval of the variance.

**Sec. 16-109.1. More stringent provisions to apply.**

All provisions of the zoning ordinances of the City of New Britain 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 article shall be held to make the same unconstitutional or be superseded by any state law or regulation, this ordinance shall not thereby be invalidated, and the remainder of this article shall continue in effect.

**ARTICLE III. NOISE****Sec. 13-47. Purpose.**

Pursuant to the general authority of G.S. § 7-148, and the specific authority of G.S. § 22a-73(c), it is hereby resolved that, to preserve and promote the health, safety and general welfare of the citizens of the Town of Trumbull (the "Town"), it is in the common interest to enact reasonable regulations pertaining to the reduction, control and or prevention of noise so as to promote a general environment free from excessive noise and vibration.

**Sec. 13-48. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article.

*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 exceeds ninety (90) per cent of the time (L90) in which the measurement is taken.

*Chief of Police* shall mean the Chief of Police of the Town of Trumbull or a duly authorized officer subject to his orders.

*Commercial zone* shall mean all commercial zones and business zones, (B-C) as defined in the zoning regulations of the Town. Any use, which is nonconforming, shall be deemed to be in the zone which corresponds to the actual use.

*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.

*Day* shall mean the hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 9:00 p.m. on Sundays.

*Decibel* shall mean a logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

*Demolition* shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*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.

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

*Emergency vehicle* shall mean any motor vehicle authorized by the Town to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.

*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.

*Impulse noise* shall mean sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

*Industrial zone* shall mean all industrial zones (I-L, I-L2, I-L3), as defined in the zoning regulations of the Town. Any use, which is nonconforming, shall be deemed to be in the zone which corresponds to the actual use.

*Loud amplification device or similar equipment* shall include, but not limited to, a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker or sound amplifier which is operated in such a manner that it creates noise.

*Motor vehicle* shall be defined as per G.S. § 14-1(47).

*Muffler* shall mean a device for abating sounds such as escaping gases.

*Night* shall mean the hours between 9:00 p.m. and 7:00 a.m., Sunday evening through Saturday morning, except that night shall mean the hours between 9:00 p.m. Saturday and 9:00 a.m. Sunday.

*Noise* shall mean any sound, the intensity of which exceeds the standards set forth in section 13-50 of this chapter.

*Noise level* shall mean the sound pressure level as measured with a sound level meter using the A-weighted network. The level so read is designated dB(A) or 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, 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 publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.



*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.

*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.

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

*Residential zone* shall mean all residential zones, (AAA, AA, A, PRCZ, PAHZ), as defined in the zoning regulations of the Town. Any use, which is nonconforming, shall be deemed to be in the zone, which corresponds to the actual use.

*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 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), or latest revision.

*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 (20) micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/meter<sup>2</sup>), and is expressed in decibels (dB).

#### **Sec. 13-49. Noise level measurement procedures.**

For the purpose of determining noise level as set forth in this article, the following guidelines shall be applicable.

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters, as defined in this article.
- (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 windscreen 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 (1) 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.

**Sec. 13-50. Noise levels.**

(a) *[Unlawful.]* 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.

(b) *Noise level standards.*

(1) 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:

*Emitter's zone:* Residential

Receptor's zone:	Maximum level:
Industrial	62dBA
Commercial	55dBA
Residential/day	55dBA
Residential/night	45dBA

(2) 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:

*Emitter's zone: Commercial*

Receptor's zone:	Maximum level:
Industrial	62dBA
Commercial	62dBA
Residential/day	55dBA
Residential/night	45dBA

(3) 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:

*Emitter's zone: Industrial*

Receptor's zone:	Maximum level:
Industrial	70dBA
Commercial	66dBA
Residential/day	55dBA
Residential/night	45dBA

(4) Any use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.

(c) *High background noise levels and impulse noise.*

(1) 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 five (5) dBA, provided that no source subject to the provisions of this article shall emit noise in excess of eighty (80) dBA at any time, and provided that this section, does not decrease the permissible levels of other sections of this article.

(2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during the nighttime to any residential noise zone.

(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 to any zone.

(d) *Exclusions.* These levels shall not apply to noise emitted by or related to:

(1) Natural phenomena.

(2) The unamplified human voice.

(3) 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 on motor vehicles not terminating within ten (10) minutes or on buildings not terminating within thirty (30) minutes after being activated shall be unlawful. Notwithstanding the foregoing, repetitive activation of any alarm system due to malfunction or lack of proper maintenance shall not be excluded.

(4) Warning devices required by OSHA or other state or federal safety regulations.

(5) Farming equipment or farming activities.

(6) Home and commercial generators during periods of lost power.

(7) Nighttime public road maintenance and line painting.

(8) Sound created by bells, carillons or chimes associated with specific religious observances.

(e) *Exemptions.* The following shall be exempt from these regulations, subject to special conditions as spelled out:

(1) Noise generated by any construction equipment, which is operated between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.

(2) Noise created as a result of, or relating to an emergency.

(3) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, and between the hours of 9:00 a.m. and 8:00 p.m. on Sundays, provided that noise discharge from exhaust is adequately muffled.

(4) Noise from snow removal equipment, provided equipment is maintained in good repair and exhaust is adequately muffled.

(5) Noise from demolition work conducted between the hours of 7:00 a.m. and 6:00 p.m., provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.

(6) Noise created by any aircraft flight operations that are specifically preempted by the Federal Aviation Administration.

(7) Noise created by any religious or recreational activities which are permitted by law and for which a lease, license or permit has been granted by the Town, including but not limited to outdoor evangelistic meetings and preaching or parades, sporting events, concerts and firework displays.

(8) 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 specific hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities.

(9) Noise created by solid waste and recycling collection between the hours of 7:00 a.m. and 6:00 p.m.

**Sec. 13-51. Prohibited noise activities.**

The following activities are prohibited:

(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.

(2) *Advertising.* No person shall at anytime use any drum, bell or other instrument or device for purpose of attracting attention to any performance, show or sale, or to the display or advertisement of merchandise.

**Sec. 13-52. Motor and recreational vehicle noise.**

(a) All motor and recreational vehicles within the limits of the Town shall be subject to the noise standards and decibel levels as found in G.S. Title 14, § 14-80a.

(b) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in subsection 13-50(b).

**Sec. 13-53. Inspections.**

(a) For the purpose of determining compliance with the provisions of this article, the Chief of Police or his designated representative is 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 Chief of Police or his 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.

(b) It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative free access to any premises, when the Chief of Police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.

(c) 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.

(d) 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 article.

**Sec. 13-54. Enforcement.**

(a) Any person aggrieved by any act constituting a violation of this article may complain to the Police Department who shall enforce this article.

(b) The police are also authorized to enforce this article without any such complaint.

**Sec. 13-55. Penalties.**

(a) Violators may be served with an infraction notice, which shall be known as a "Noise Ticket". Payment of the fine prescribed by such Noise Ticket within the time specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offence cited. Fines shall be in the amount of seventy-five dollars (\$75.00) for the first offence, and one hundred dollars (\$100.00) for each subsequent offence.

(b) Said fine amounts as may be levied may be adjusted without further municipal action so as to be in conformity with the State of Connecticut, Superior Court, Mail in Violations and Infractions Schedule, as it may be amended from time to time. Nothing in this article shall prevent the Police Department, because of the perceived nature of the offence, from proceeding not under the terms of this article, but under the provisions of G.S. §§ 53a-181, 53a-181a, 53a-182, and 531-181, as they may be amended from time to time, which sections relate, generally to breach of peace, creating a public disturbance, and disorderly conduct, etc.

**Sec. 13-56. Variances and contracts.**

(a) *Variances.*

(1) Any person living or doing business in the Town may apply to the Trumbull Monroe Regional Health District for a variance from one (1) or more of the provisions of this article, which are more stringent than the State Department of Environmental Protection regulations for the control of noise, provided that the applicant supplies all of the following information to the Director of Health:

a. The location and nature of the activity;

- b. The time period and the hours of operation of the activity;
  - c. The nature and intensity of the noise that will be generated; and
  - d. Any other information required by the Director of Health.
- (2) No variance from this article shall be issued unless it has been demonstrated that:
- a. The proposed activity will not violate any provisions for the State 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 this article constitutes an unreasonable hardship on the applicant.
- (3) The application for the variance shall be reviewed and either approved or rejected within fifteen (15) days of the receipt by the Director of Health. The approval or rejection shall be in writing and shall state the conditions of approval of the variance.
- (4) Failure to rule on the application in the designated time shall constitute approval of the variance.
- (b) *Recourse.* Any person aggrieved by the decision of the Director of Health with the respect to any variance may appeal same to the Zoning Board of Appeals within a period of ten (10) days of receipt of the Health Director's decision.
- (c) *Contracts.* Any written agreement, purchase order or contract whereby the Town 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 article will be operated, constructed, conducted or manufactured without violating the provisions of this article.

**Sec. 13-57. Conflicting provisions.**

All provisions of the zoning regulations of the Town which are more stringent than those set forth in this article shall remain in force. If, for any reason, any word, clause, paragraph or section of this article shall be held to make the same unconstitutional, this article shall hereby be invalidated and the remainder of this article shall continue in effect. Any provision herein which is in conflict with the state statutes or the public health code of this state are hereby repealed, it being understood that such statutes and code shall take precedence over this article.

**ARTICLE III. NOISE CONTROL****Sec. 50-61. Purpose of article.**

The policy of the state under C.G.S. § 22a-67 is to promote an environment free from noise that jeopardizes the health and welfare of the citizens of the state. To that end, the purpose of this article is to establish a means for effective enforcement of a noise pollution standard. Further, the state legislature has found, and the town council finds and declares that:

- (1) Excessive noise is a serious hazard to the health, welfare and quality of life of the citizens of the state and the town.
- (2) Exposure to certain levels of noise can result in physiological, psychological and economic damage.
- (3) A substantial body of science and technology exists by which excessive noise may be substantially abated.
- (4) The primary responsibility for control of noise rests with the state and towns.
- (5) Each person has a right to an environment free from excessive noise that may jeopardize his health, safety or welfare.

**Sec. 50-62. Penalty for violation of article.**

Any person or business violating any of the provisions of this article shall be deemed guilty of a municipal violation and punished as provided in section 1-12.

**Sec. 50-63. Effect of more stringent zoning regulations.**

All provisions of the zoning regulations of the town which are more stringent than those set forth in this article, shall remain in force. If, for any reason, any word, clause, paragraph or section of this article shall be held to make the same unconstitutional or superceded by any state law or regulation, this article shall not thereby be invalidated, and the remainder of the article shall continue in effect.

**Sec. 50-64. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Background noise* means noise which exists at a point as a result of a combination of many distant sources individually indistinguishable.



*Daytime hours* means the hours between 7:00 a.m. and 8:00 p.m. on every day but Sunday and the hours of 9:00 a.m. through 8:00 p.m. on Sundays.

*Decibel* means a unit of measurement of the sound level.

*Impulse noise* means a sound of short duration, usually less than one second, with an abrupt onset and rapid decay, where such sound is not repetitive.

*Nighttime hours* means the hours between 8:00 p.m. and 7:00 a.m. each day from Sunday evening through Saturday morning except that night shall mean the hours between 8:00 p.m. Saturday and 9:00 a.m. Sunday.

*Noise control officer* means the individual so designated by the town manager as the person responsible to enforce this article and report to the town manager regarding violations and/or noncompliance with this article.

*Noise level* means the sound pressure level measured with a sound level meter using the A-weighting network. The level so read is designated dBa(A) or dBA.

**Sec. 50-65. Performance standards.**

It shall be the responsibility of the designated noise control officer to enforce all aspects of this article, including the following:

- (1) No noise shall be emitted beyond the boundaries of a lot or parcel in excess of the noise levels established in this article;
- (2) Noise emitted from commercial and industrial zones beyond the boundary of the lot or parcel shall not exceed the levels stated in the following table to the respective adjacent residential, commercial or industrial zones:

	Receptor's Zone			
Emitter's Zone	Industrial	Commercial	Residential/ Day	Residential/ Night
Commercial:	62dBA	62dBA	55dBA	45dBA
Industrial:	70dBA	66dBA	61dBA	51dBA

The above levels represent the current levels adopted by the state. If the state changes its levels in the future, the levels of this article will automatically be changed to correspond with the new state levels. Measurements shall be taken at several different points located beyond the boundary of the emitter's lot or parcel in various locations throughout the receptor parcel or parcels in an attempt to locate the loudest noise level emitted;

(3) High background noise levels and impulse noises are those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained in this section. A source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by 5dBA, provided that no source subject to the provisions of this article shall emit noise in excess of 80dBA at any time; and provided that this section does not decrease the permissible levels of other sections of this article. Further, no impulse noise shall be caused or allowed in excess of 80dBA peak sound pressure level during the nighttime hours to any residential zone or use and the emission of impulse noise shall not be caused or allowed in excess of 100dBA peak sound pressure level at any time to any zone or use; and

(4) Exclusions and exceptions shall be in accordance with regulations of the state department of environmental protection, C.G.S. §§ 22a-69-1.7, 22a-69-1.8.

**Sec. 50-66. Specific prohibitions.**

The operation of lawnmowers, leaf blowers, snow blowers, tractors, chain saws or other machinery powered by an internal combustion engine is prohibited between the hours of 8:00 p.m. and 8:00 a.m., except during the 24-hour period immediately following a snowfall or other weather-related emergency.

**Sec. 50-67. Exempted activities and uses.**

The following activities and uses shall be exempt from this article:

- (1) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency; and
- (2) Noises emanating from municipal vehicles, such as snow plows, garbage trucks, emergency road trucks and other emergency vehicles.

**Sec. 50-68. Determination of offense.**

The standards which shall be considered by the noise control officer in determining whether a violation of this article exists shall include, but shall not be limited to, the following:

- (1) The level of noise;
- (2) Whether the origin of the noise is natural or unnatural;
- (3) The background noise level, if any;
- (4) The zoning of the area from which the noise is emitted and the zoning of the area within which the noise is received;
- (5) The time of day or night the noise occurs;

- (6) The duration of the noise; and
- (7) The day of the week, or holiday, on which the noise occurs.

**Sec. 50-69. Temporary variance from article provisions.**

(a) *Application; contents.* Any person residing or doing business in the town may apply to the town manager for a temporary variance from one or more of the provisions of this article if they are more stringent than the state 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 20 days prior to the date of the activity:

- (1) The location and nature of 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) A plan to be implemented which will correct the noise problem requiring the temporary variance; and
- (5) Any other information required by the town manager.

(b) *Conditions for issuance.* No variance from this article shall be issued unless it has been demonstrated that:

- (1) The proposed activity will not violate any provisions of the state department of environmental protection regulations;
- (2) The noise levels generated by the proposed activity will not constitute danger to the public health; and
- (3) Compliance with this article constitutes an unreasonable hardship on the applicant.

(c) *Review; approval or rejection.* The application for variance shall be reviewed and either approved or rejected at least five days prior to the proposed start of the 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.* Failure to rule on the application in the designated time shall constitute approval of the temporary variance.

## CHAPTER 208 NOISE

[HISTORY: Adopted by the Board of Selectmen of the Town of Guilford 6-18-2007, effective 7-29-2007. Amendments noted where applicable.]

### GENERAL REFERENCES

Animals — See Ch. 131.

Parks and public places — See Ch. 214.

Peddling and soliciting — See Ch. 218.

Vehicles and traffic — See Ch. 259.

Zoning — See Ch. 273.

### § 208-1 Title.

The title of this chapter shall be the "Town of Guilford Noise Control Ordinance."

### § 208-2 Purpose.

The policy of the state under C.G.S. § 22a-67 is to promote an environment free from noise that jeopardizes the health and welfare of the citizens. 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 chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Guilford through reduction, control and prevention of noise.

### § 208-3 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

#### AMBIENT NOISE or BACKGROUND NOISE

Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

#### BOARD OF SELECTMEN

The Board of Selectmen of the Town of Guilford or a duly authorized officer.

#### COMMERCIAL ZONE

As defined and set forth in Article II of Chapter 273, Zoning, of the Code of the Town of Guilford and all associated uses therewith, either permitted as a right or as a special use.

#### CONSTRUCTION

Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar properties, but excluding demolition.

#### CONSTRUCTION EQUIPMENT

Any equipment or device operated by any fuel or electric power used in construction or demolition work.

#### DAYTIME HOURS

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.

#### DECIBEL

A logarithmic unit of measure in measuring magnitudes of sound; the symbol "dB."

#### DEMOLITION

Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar properties.

#### DOMESTIC POWER EQUIPMENT

Including 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.

#### EMERGENCY

Any occurrence or set of circumstances involving actual or perceived imminent physical trauma or property damage which demands immediate action.

#### EMERGENCY VEHICLE

Any motor vehicle authorized by the State of Connecticut to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency. (C.G.S. § 14-283).

#### EMERGENCY WORK

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.

#### IMPULSE NOISE

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

#### INDUSTRIAL ZONE

As defined and set forth in Article II of Chapter 273, Zoning, of the Code of the Town of Guilford and all uses associated therewith, either permitted as a right or as a special use.

#### MOTOR VEHICLE

Per Section 14-1 of the Connecticut General Statutes.

#### MUFFLER

A device for abating sounds such as escaping gases.

#### NIGHTTIME HOURS

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.

### NOISE

Any sound, the intensity of which exceeds the standards set forth on § 208-5B of this chapter.

### NOISE LEVEL

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."

### 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. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

### 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.

### PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

### RESIDENTIAL ZONE

Those residential districts as defined and set forth in Article II of Chapter 273, Zoning, of the Code of the Town of Guilford and all uses associated therewith, either permitted as a right or as a special use.

### 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 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).

### SOUND PRESSURE LEVEL

Twenty times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter and is expressed in decibels (dB).

## **§ 208-4 Sound-measuring procedure.**

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

A.

All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.

B.

Instruments used to determine sound-level measurements shall conform to the sound-level meters as defined by this chapter.

C.

The general steps listed below shall be followed 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)

The sound-level meter shall be calibrated before and after each set of measurements.

(3)

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 instruction.

(4)

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 feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.

(5)

Measurements shall be taken at the 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.

**§ 208-5 Noise levels.**

A.

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.

B.

Noise level standards:

(1)

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 and industrial zones:

		Receptor's Zone				<u>(2)</u> No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated
		Industrial	Commercial	Residential	Residential	
Emitter's Zone						
Residential		62dBA	55dBA	Day 55 dBA	Night 45 dBA	

herein and applicable to adjacent residential, commercial or industrial zones:

		Receptor's Zone				<u>(3)</u> No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated
		Industrial	Commercial	Residential	Residential	
Emitter's Zone						
Commercial		62dBA	62 dBA	Day 55 dBA	Night 45 dBA	

herein and applicable to adjacent residential, commercial or industrial zones:

		Receptor's Zone				<u>C.</u> High background noise levels and impulse noise. <u>(1)</u> In those
		Industrial	Commercial	Residential	Residential	
Emitter's Zone						
Industrial		70 dBA	66 dBA	Day 61 dBA	Night 51 dBA	



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 five (5) dBA, provided that no source subject to the provisions of this chapter 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 chapter.

(2)

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.

(3)

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.

D.

Exclusions. These levels shall not apply to noise emitted by or related to:

(1)

Natural phenomena.

(2)

Any bell or chime from any building clock, school, or church.

(3)

Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation; provided, however, that burglar alarms not terminating within 30 minutes after being activated shall be unlawful.

(4)

Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.

(5)

Farming equipment or farming activity.

E.

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

(1)

Noise generated by any construction equipment which is operated during daytime hours. Noise generated by construction equipment during nighttime hours shall not exceed the maximum noise levels as specified on § 208-5B.

(2)

Noise created as a result of or relating to an emergency.

(3)

Noise from domestic power equipment such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.

(4)

Noise from snow removal equipment.

(5)

Noise from demolition work conducted during daytime hours. When considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.

(6)

Noise created by any aircraft flight operations which are specifically permitted by the Federal Aviation Administration.

(7)

Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the Town or State of Connecticut, including but not limited to parades, sporting events, concerts and firework displays.

(8)

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 is obtained from local authorities.

(9)

Noise generated by the police and other established shooting facilities as permitted by Connecticut firearms laws, C.G.S. 22a-74a.

**§ 208-6 Refuse collection noise.**

All refuse collectors shall comply with the noise level standards as established in this chapter while engaging in refuse collection at each location. For purposes of this chapter, the term "refuse collectors" shall be synonymous with private haulers and all other persons that commercially engage in the collection and transportation of refuse and other debris.

**§ 208-7 Motor vehicle noise.**

**A.**

All motor vehicles operated within the limits of the Town of Guilford 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.

**B.**

No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 208-5B.

**§ 208-8 Inspections.**

**A.**

For the purpose of determining compliance with the provisions of this chapter, the Board of Selectmen or its designated representative is 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 its 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.

**B.**

It shall be unlawful for any person to refuse to allow or permit the Board of Selectmen or its designated representative free access to any premises when the Board of Selectmen or its designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.

**C.**

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.

D.

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 chapter.

**§ 208-9 Enforcement; penalties for offenses.**

A.

The Chief of Police or his designee is the Town official responsible for enforcement of this chapter.

B.

Unless otherwise provided, any person who violates any provision of this chapter may be fined not more than \$99 for each violation. Each day's violation shall be deemed a separate offense.

C.

It shall be the responsibility of the offender to abate the violation as ordered. In the event the offender does not abate the violation, the Town may seek injunctive relief in the Superior Court, including fines, legal fees, and costs.

**§ 208-10 Variances.**

A.

Any person living or doing business in Guilford may apply to the Town for a variance from one or more of the provisions of the chapter which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplied all of the following information to the Board of Selectmen at least 20 days prior to the start of said activity:

(1)

The location and nature of the 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)

Any other information required by the Board of Selectmen.

B.

No variance from those regulations shall be used 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 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 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.

E.

See Appendix for sample application for variance.

Editor's Note: The sample application is available in the Town offices.

**§ 208-11 Conflicting provisions.**

A.

The Town of Guilford has all the rights contained in Chapter 442, § 22A, of the Connecticut General Statutes, in addition to the regulations contained in this chapter.

B.

All provisions of the Zoning Code

Editor's Note: See Ch. 273, Zoning.

of the Town of Guilford, 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 chapter shall be held to make the same unconstitutional, this chapter shall not hereby be invalidated and the remainder of this chapter 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 is hereby repealed, it being understood that said statutes and code shall take precedence over this chapter.

## Chapter 9.06 NOISE CONTROL

### Sections:

9.06.010 Purpose.

9.06.020 Legislative references.

9.06.030 Definitions.

9.06.040 Classification of noise zones by land use.

9.06.050 Noise zone standards.

9.06.060 Exclusions.

9.06.070 Exemptions.

9.06.080 Noise level measurement procedures.

9.06.090 Enforcement--Violation--Penalty.

9.06.100 Variance.

9.06.010 Purpose.

The making, creation or maintenance of unreasonably loud, unnecessary or disturbing noises, as prescribed in this chapter, affect and are a detriment to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the town. The purpose of this chapter is to protect, preserve and promote the public health, safety and welfare insofar as they are affected by the creation and maintenance of excessive or unnecessary noise as defined by this chapter. This chapter prescribes a minimum and uniform standard governing the creation and maintenance of noise levels in the community.

(R.T.M. 8-2-93 (part))

9.06.020 Legislative references.

This chapter is adopted pursuant to the provisions of Section 22a-73 of the Connecticut General Statutes. This chapter is intended to conform to Section 22a-69 of the Connecticut General Statutes, except that this chapter may prescribe a more stringent noise standard as permitted in Section 22a-73(c) of the Connecticut General Statutes.

(R.T.M. 8-2-93 (part))

#### 9.06.030 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. Where terms are not defined under the provisions of this chapter and are defined in the noise regulations of the Connecticut Department of Environmental Protection (Sections 22a-69-1.1 and 22a-69-1.2), they shall have the same meanings ascribed to them in those regulations. Otherwise, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

"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.

"Daytime hours" means the hours between seven a.m. and nine p.m., Monday through Saturday, and the hours between nine a.m. and nine p.m. on Sunday (local time).

"Excessive noise" means emitter noise zone levels from noise sources exceeding the standards set forth in Section 9.06.050 of this chapter beyond the boundary of the emitters noise zones.

"Mobile sources of noise" shall include, but are not limited to, such sources as aircraft, automobiles, trucks and boats.

"Nighttime hours" means the hours between nine p.m. and seven a.m., Sunday through Friday, and the hours between nine a.m. Saturday and nine a.m. Sunday (local time).

"Noise zone" means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way, water bodies, and waters of the state.

"Site" means the area bounded by the property line on or in which, a source of noise exists.



"Sound level meter" means an instrument, including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

(R.T.M. 8-2-93 (part))

#### 9.06.040 Classification of noise zones by land use.

##### A. General.

1. Noise zone classifications shall be based on the actual use of any parcel or tract under single ownership, or in the case of vacant lands, based on the zoning district in which a parcel is located as detailed herein and described on the zoning map and in the zoning regulations of the town.
2. Where multiple uses exist within a given noise zone, the least restrictive land use category for the emitter and receptor shall apply regarding the noise standards specified in subsection A of Section 9.06.050 of these regulations.

B. *Class A Noise Zone/Uses.* Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land. The land uses in this category shall include, but not be limited to, single and multiple-family homes, hotels, motels, religious facilities, hospitals, nursing homes, cultural activities, forest preserves and vacant land zoned for residential or related uses requiring such protection. Residential zoning districts R-20, R-40, RU-120, VR, OS, R-MF, C-MF, CT MF, I-MF.

C. *Class B Noise Zone/Uses.* Lands designated Class B shall generally be commercial in nature. The land uses in this category shall include, but not be limited to, retail trade, professional offices, personal, business and legal services, educational institutions, government services, amusements, agricultural activities, and vacant lands zoned for such commercial or institutional uses. Commercial zoning districts NB, NBPO, CT, CG, WD, CR.

D. *Class C Noise Zone/Uses.* Lands designated Class C shall generally be industrial. The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, earth products excavation, processing and mining, and other lands zoned for such uses. Industrial zoning districts zoned IP1, IP3, IG, IC.

(R.T.M. 8-2-93 (part))

#### 9.06.050 Noise zone standards.

A. No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her noise zone as measured at any point on a receptor's tract or parcel of land, so as to exceed the levels stated herein:

TABLE INSET:

Receptor Noise Zone Class

	C	B	A-Day	A-Night
Class C emitter to	70 dBA	66 dBA	61 dBA	51 dBA
Class B emitter to	62 dBA	62 dBA	55 dBA	45 dBA
Class A emitter to	62 dBA	55 dBA	55 dBA	45 dBA

Sound levels determined by the police department to be in excess of these values shall constitute proof of violation of this chapter.

B. Intrusion Alarms.

1. No person shall cause, suffer, allow, or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle or thirty minutes when attached to any building or structure.
2. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

C. High Background Noise Areas. 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 level by five dBA, provided that no source subject to the provisions of subsection A of this section shall emit noise in excess of eighty dBA at any time, and provided that this section does not decrease the permissible levels of other sections of this regulation.

D. Impulse Noise.

1. No person shall cause or allow the emission of impulse noise in excess of eighty dB peak sound pressure level during nighttime hours.

2. No person shall cause or allow the emission of impulse noise in excess of one hundred dB noise sound pressure level at anytime.

E. Noise Excursions. In measuring compliance with noise zone standards of subsection A of this section, 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.

TABLE INSET:

Allowable levels above standards (dBA)    Time period of such levels (minutes per hour)

3    15

6    7.5

8    5

F. Existing Noise Sources. All existing noise sources shall be provided twenty-four months in order to achieve compliance with these regulations if a notice of violation has been, or may be, issued to the source. This time period begins with the effective date of the ordinance codified in this chapter, not with the date of the notice of violation.

G. Prohibited Noise Activities. The following are prohibited noise activities:

Truck Idling: No person shall operate any standing motor vehicle with a weight in excess of ten thousand pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten minutes when such vehicle is parked on a residential premises or on a town road next to a residential premises. This prohibition shall not apply to vehicles operated by utility companies and the town while maintaining, repairing, or installing utilities, or road work including pumps and generators needed to support the work. Vehicles involved in building operations shall be governed by the provisions of subsection C of Section 9.06.070.

(R.T.M. 8-2-93 (part))

9.06.060 Exclusions.

These regulations shall not apply to:

- A. Sound generated by natural phenomena;
- B. The unamplified sounding of the human voice;
- C. The unamplified sound made by any wild or domestic animal;
- D. Sound created by bells, carillons, or chimes associated with specific religious observances and/or organizations;
- E. Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, or located within or attached to a building, pole or other structure for the purpose of sounding or testing an alarm relating to fire or emergency management;
- F. Sound created by safety and protective devices;
- G. Farming equipment or farming activity;
- H. Back-up alarms required by OSHA or other state or federal safety regulations;
- I. Sound created by mobile sources of noise. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, and has begun the physical process of loading or removing the contents of the vehicle. Nor shall it apply to the operation of equipment or vehicles used in the processing, including destruction of bottles, boxes, crates and containers, junk or other waste material, excepting waste collection. Mobile sources shall include noise from motor vehicles participating in speed or endurance events sanctioned for such use by the town and state Department of Motor Vehicles;
- J. Sound created by construction activities on or uses of state or federal facilities, lands or rights of ways.

(R.T.M. 8-2-93 (part))

#### 9.06.070 Exemptions.

Exempted from this chapter are:

- A. Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of eight a.m. and nine p.m., provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom;
- B. Noises created by snow removal equipment at any time shall be exempted, 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;

C. Building Operations. The erection including excavating, demolition, alteration or repair of any building, or the excavation of streets and highways, between the hours of seven a.m. to nine p.m. on weekdays, and eight a.m. to nine p.m. on weekends; provided, that the building operations or operation of construction equipment after the hours listed herein shall not exceed the maximum noise levels as specified in subsection A of Section 9.06.050. Except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the first selectman, which permit may be granted and renewed for a period not to exceed five days, which allows these hours to be extended;

D. Patriotic or public celebrations, such as parades, carnivals and fireworks displays, not extending beyond eleven p.m. are exempted, provided that a permit has been obtained in advance from the planning and zoning commission, or board of selectmen as applicable;

E. Noise created by blasting when the blasting is conducted between eight a.m. to five p.m., and provided that a permit for such blasting has been obtained from the Waterford fire marshal, except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the first selectman, which permit may be granted and renewed for a period not to exceed five days which allows these hours to be extended;

F. Noises created by emergency generators at any time when they are being used because of power outages, 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.

(R.T.M. 8-2-93 (part))

#### 9.06.080 Noise level measurement procedures.

For the purpose of determining noise levels as set forth in this chapter, the following guide-lines shall be applicable:

A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation;

B. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter;

C. The general steps listed below shall be followed 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. The sound level meter shall be calibrated before and after each set of measurements,
3. 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 feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements,
4. Measurements shall be taken and documented at a point that is located approximately one foot beyond the boundary of the emitter's premises within the noise receptor's premises as measured by triangulation and/or public land records. 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.

(R.T.M. 8-2-93 (part))

#### 9.06.090 Enforcement--Violation--Penalty.

##### A. Enforcement.

1. A police officer shall be responsible for making noise level measurements to determine that a violation of Section 9.06.050 has in fact occurred. Whenever the police officer determines that any of these regulations have been violated or there has been a failure to comply therewith, the officer shall make and serve upon the person(s) responsible for the violation a written order specifying the nature of the violation or failure, and affording a reasonable time for its correction or remedy. Prior to the issuance of such order, such officer shall make a reasonable effort in light of the circumstances to correct a violation or achieve compliance by means of conference, conciliation and persuasion. Unless the person(s) against whom an order has been served files a written answer thereto within thirty days after the date of service of the order and requests a hearing thereon, such order shall become final and effective.

2. The Waterford police department shall be responsible for the enforcement of any prohibited activity listed in subsection G of Section 9.06.050, and conducting any activity listed in Section 9.06.070 outside of the hours during which these activities may be conducted. When it has been determined that a violation has occurred it shall constitute an infraction of a local ordinance and shall be prosecuted as such.

B. Penalty for Violation. Any person in violation of any of the provisions of this chapter shall be fined in an amount not to exceed ninety five dollars. Each day on which a violation occurs or continues after the time for correction of the violation given in the order has elapsed or after thirty days from the date of service of the order, whichever is later, shall be considered a separate violation of these regulations.

(R.T.M. 8-2-93 (part))

9.06.100 Variance.

A. Any person living or doing business in the town may apply to the planning and zoning commission for a variance from one or more of the provisions of this chapter which are more stringent than the state Department of Environmental Protection regulations for the control of noise provided that the applicant supplies all the following information to the planning and zoning commission:

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 planning and zoning commission.

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 state 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 the regulations constitutes an unreasonable hardship on the applicant.

C. The application for variance shall be reviewed and either approved or rejected within sixty-five days of receipt by the planning and zoning commission. The approval or rejection shall be in writing and shall state the reasons for the action taken on the variance. The planning and zoning commission may establish conditions of approval of a variance including a schedule for compliance. The planning and zoning commission shall cause to have published in a newspaper of local circulation a notice of action on the variance request indicating the nature of the variance, action taken, location, owner, and applicant making the variance application.

D. In the case of variance applications involving requests to vary the standards in these regulations that are equivalent to the State Noise Regulations, the application must be made to the State Commissioner of the Department of Environmental Protection. Any variances issued by the Commissioner shall not be required to be submitted to the planning and zoning commission. Any variance issued by the Commissioner of the Department of Environmental Protection shall be considered a variance from compliance with the applicable provisions of these regulations.

(R.T.M. 8-2-93 (part))