

DRAFT CHANGES TO CHAPTER 95: NOISE REGULATIONS – February 26, 2020

§ 95.01 DECLARATION OF FINDINGS AND POLICY

Whereas, excessive sound is a serious hazard to the public health and safety, and the quality of life; and

Whereas, a substantial body of science and technology exists addressing procedures by which excessive sound may be substantially abated; and

Whereas, it is the intent of this Ordinance to address excessive sound that may jeopardize public health and safety and protect the quality of life in Watertown.

Now therefore it is the policy of the City known as the Town of Watertown to regulate excessive noise to protect public health and safety.

§ 95.02 DEFINITIONS.

Ambient or Background Noise Level: the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound pressure level meter set for slow response on the “A” weighting filter in a specific area of the Town under investigation.

Amplified sound: sound generated by loudspeakers and public address systems, radios, televisions, amplified musical instruments, phonographs, sound amplifiers, or similar devices which produce, reproduce, or amplify sound.

Construction and Demolition: Any site preparation, assembly, erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

Commercial enterprise: an activity providing goods and services involving financial and commercial and industrial aspects, including operations undertaken pursuant to a building or other operational permit or license.

Decibel (dB): a logarithmic unit used to describe a ratio of sound pressure, loudness, power, and voltage.

Decibel “A” weighted scale (dBA): the most widely used sound level filter is the “A” weighted scale. This filter simulates the average human hearing profile. Using the “A” weighted scale, the meter is less sensitive to very low and high frequencies.

Emergencies: any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

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Noise: sound of sufficient intensity and/or duration as to cause a condition of noise pollution.

Noise Pollution: a noise source which increases noise levels 10 dBA or more above the background noise level. If the noise source is a tonal sound as defined below, an increase of 3 dBA above background noise level is sufficient to cause noise pollution.

Tonal Sound: any sound that produces a “pure tone” condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

Sound-level meter: an instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound-level meters or an instrument and the associated recording and analyzing technology which will provide equivalent data.

Vibration perception threshold: shall mean the minimum ground, or structure, borne vibration motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

§ 95.03 SOURCES OF NOISE POLLUTION.

(A) No person owning, leasing or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, suffer, allow or permit unnecessary emissions from said source of sound that may cause noise pollution.

(B) The following acts are declared to be loud, disturbing and unnecessary noises in violation of Section 95.03(A), but said enumeration shall not be deemed to be exclusive.

- (1) *Air conditioners*. It shall be unlawful for any person to maintain any refrigeration machinery or air conditioning, consisting of air compressors or rotating or reciprocating machinery, in such manner as to create noise pollution.
- (2) *Animals and birds*. Owning, possessing or harboring any animal or bird which creates noise pollution in violation of Chapter 91 (Animals), Section 91.09(G).
- (3) *Alarms*.
 - a. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within ten minutes of activation and does not sound again at all within the hour.
 - b. Each ten minute interval of sounding, or part thereof, within an hour after the initial ten minute sounding shall constitute a separate violation.
 - c. Fines for the sounding of burglar or fire alarms in violation of this section may be assessed against the owner and/or the occupant of the building in which the alarm is located.

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- d. Any motor vehicle, located on either public or private property, whose alarm has been sounding in excess of ten minutes in an hour, is hereby deemed to be a public nuisance subject to immediate abatement. To effect abatement, police must have reasonable evidence that the sounding has lasted in excess of ten minutes, and then make reasonable efforts to contact the owner of such vehicle to either have the owner shut off the alarm or to authorize police to arrange for the shut-off of the alarm. If such efforts are unsuccessful, police are hereby authorized to abate the nuisance by arranging for tow company employees to shut off the alarm and/or to tow the motor vehicle to a storage area or other place of safety. In addition to any fines for violating this section, the registered owner of the motor vehicle shall be responsible for all reasonable expenses, costs and charges incurred by the deactivation of the alarm, and by the removal and storage of such vehicle.
- (4) *Stationary nonemergency signaling devices.*
- a. Sounding or permitting the sounding of any signal from any bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place, for more than ten minutes in total in any hourly period.
- b. Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.
- (5) *Engine exhausts.* The discharge into the open air within the Town of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine, or other kind or type of engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, provided that fines for such noise disturbance shall be provided for in G.L. c. 90, § 16.
- (6) *Explosives, firearms, and similar devices.* The use or firing of explosives, firearms, firecrackers, or similar devices which create impulsive sound so as to cause noise pollution in violation of Chapter 130 (General Offenses), Section 130.04.
- (7) *Defect in vehicle or load.* The use within the Town of any wagon, cart, motor vehicle, truck, motorcycle, or other vehicle, so out of repair or loaded in such manner or with material of such nature as to create loud and unnecessary grating, grinding, rattling or other noises.
- (8) *Horns and other signaling devices.* The sounding of any horn or signaling device on any motor vehicle, motorcycle, or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.
- (9) *Loudspeakers and public address system.* Unless otherwise permitted by a duly authorized agent of the Town pursuant to Section 95.07(B), using or operating for any

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purpose any loudspeaker, public address system, or similar device (1) such that the sound therefrom creates noise pollution; or (2) between the hours of 10:00 p.m. and 7:00 a.m.

- (10) *Radios, television sets, musical instruments, and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to create noise pollution.
- (11) ~~*Noises which disturb the reasonable quiet, comfort, repose, or health of others shall include loud outcries and other loud or boisterous noises which are not specifically exempted by this Ordinance, and which are measured by the Noise Standards set forth in Section 95.06 herein, occurring between the hours of 10:00 p.m. and 7:00 a.m. Shouting, yelling, hooting, whistling, or singing between the hours of 10:00 p.m. and 7:00 a.m. so as to create noise pollution.*~~
- (12) *Street sales.* Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the Town, except in a stadium or sports arena. Ice cream trucks shall be exempt from this section.
- (13) *Vehicle repairs and testing.* Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause noise pollution.
- (14) *Vibration.* Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 50 feet from the source if on a public space or public right-of-way.

§ 95.04 MEASUREMENTS OF NOISE

(A) The Town hereby incorporates into and makes a part of this chapter the provisions of 310 CMR 7.00, entitled Air Pollution Control Regulations, sec. 7.10 U Noise; [Massachusetts DEP Noise Pollution Policy Interpretation](#); and [DEQE \(DEP\) Division of Air Quality Control Policy 90-001](#), dated February 1, 1990; all as may be amended. To the extent any provision contained in any of the above-referenced documents conflict in any way with a provision contained in this chapter, the provision in this chapter shall control.

(B) These regulations shall govern the definitions, measurement and restriction of sources of noise pollution.

(C) All noise level measurements made pursuant to this chapter shall be made with a sound-level meter.

(D) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might

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reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made at the property line of any property, or if a condominium or apartment house, within any adjoining apartment. .

(E) If the offending noise source is continuous and cannot be reasonably discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level and noise pollution determination while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table 1 below.

95.05 DESIGNATED NOISE ZONES.

The properties hereinafter described are hereby assigned to the following noise zones:

1. Noise Zone I: All Residence Districts as defined by the Watertown Zoning Ordinance; and
2. Noise Zone II: All other Zoning Districts (Business Districts, Industrial Districts and Special Zoning Districts) as defined by the Watertown Zoning Ordinance.

95.06 NOISE STANDARDS.

A. It shall be unlawful for any person at any location within the Town to (1) create any loud noise, or (2) to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed the greater of:

1. The maximum allowable exterior sound level outlined in Table I; or
2. 10 dBA or more above the background noise level or 3dBA above background noise level for tonal sounds.

Table 1: Maximum Allowable Exterior Sound Level

		ZONE 1		ZONE 2	
		<i>Residential Districts</i>		<i>Business, Industrial, Special Districts</i>	
		DAY 7 am to 10 pm	NIGHT 10 pm to 7 am	DAY 7 am to 10 pm	NIGHT 10 pm to 7 am
Duration of Sound	<i>Less than 10 minutes</i>	65 dbA	60 dbA	75 dbA	70 dbA
	<i>Between 10 minutes and 2 hours</i>	60 dbA	50 dbA	70 dba	65 dbA
	<i>In excess of 2 hours</i>	55 dbA	45 dbA	65 dbA	60 dbA

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(B) Notwithstanding the provisions of **§ 95.03 and § 95.06 (A)**, audible devices or activities resulting in a condition of noise pollution shall be allowed as follows:

1. Noise associated with construction or demolition and home improvement work undertaken by a commercial enterprise is permitted between 7:00 a.m. and 7:00 p.m. on weekdays and between 9:00 a.m. and 5:00 p.m. on Saturdays, provided that the cumulative noise level of all construction and demolition on one site at any one time shall not exceed 90 dbA. However, if noise barriers are used to effectively shield nearby areas from a condition of noise pollution, the following devices shall be exempt from the maximum noise level limitations: jackhammers; pavement breakers; pile drivers and rock drills.
2. Noise associated with loading and unloading, deliveries, truck/vehicle idling is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 5:00 p.m. on weekends and legal holidays.
3.
 - a. Noise associated with power equipment, ground maintenance equipment used by residents or commercial enterprises such as lawn mowers and power saws is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 5:00 p.m. on weekends and legal holidays, provided that the cumulative noise level of all work on one site at any one time shall not exceed 80 dbA, as measured at a distance of fifty (50) feet from the source.
 - b. Noise associated with power equipment and ground maintenance equipment operated between the hours of 6:00 p.m. and 10:00 a.m. shall be limited by the standards of Section 95.06 (A) on all days.
4. Noise associated with portable, handheld or back pack style leaf blowers is permitted on weekdays between 7:00 a.m. and 5:00 p.m., between 9:00 a.m. and 5:00 p.m. on Saturdays, between 9:30 a.m. and 5:00 p.m. on legal holidays. On Sundays leaf blowers can only be used by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:00 p.m. In all cases said leaf blowers shall not exceed 65dBa.

(C) Activities undertaken within the hours specified herein shall be exempt from the limitation of noise contained within Section 95.06(A) except as otherwise provided herein.

(D) No commercial enterprise shall conduct any construction or demolition activity on Sundays or legal holidays or outside the hours specified in Section 95.06(B)(1), unless a permit has been issued for such work by the Building Inspector, Superintendent of Public Works, or the Chief of Police in accordance with MGLA 136 § 15.

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(E) No person or organization shall play amplified music in public parks without a permit from the appropriate Town Department.

§ 95.07 EXCEPTIONS.

This chapter shall apply to the control of all sound originating within the limits of the Town of Watertown except the following:

(A) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities.

(B) Announcements and music played during graduation exercises and Watertown interscholastic school games in accordance with agreements promulgated by the Town Administration.

(C) ~~Occasional P~~parades, outdoor gatherings, public dances, shows, sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate authority with jurisdiction relative to the staging of said events.

(D) Equipment used for emergency work performed by the Department of Public Works or its subcontractor including jack hammers, pavement breakers, rock drills, or such other equipment as the DPW deems necessary. The DPW and/or its subcontractors shall make reasonable efforts to reduce noise in residential areas at night.

(E) Day and nighttime operations by the Department of Public Works for routine maintenance including but not limited to street cleaning, litter control, and graffiti removal.

(F) All snow clearance activities; and

(G) Religious, political or non-commercial public gatherings to the extent such activities are protected by the First Amendment to the United States Constitution. ~~Any activity to the extent regulation thereof has been preempted by state or federal law.~~

§ 95.08 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS.

~~(A) All Town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this chapter.~~

~~(A)~~ All Town departments and agencies shall comply with Federal and State laws and regulations and the provisions and intent of this ordinance respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

Commented [AD1]: Have Town attorney confirm this includes protests and public demonstrations conducted without a permit.

Commented [AD2]: Have Town Attorney review to see if both provisions are necessary.

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§ 95.09 ENFORCEMENT.

(A) The Chief of Police and the Director of Public Health and their duly authorized agents, officers and employees shall have primary responsibility for the enforcement of the terms of this chapter. In addition, the Chief of Fire, Superintendent of Public Works, Building Inspector, Code Enforcement Office or their duly authorized agents, officers, employees or designees, , acting within their jurisdictional area are authorized to enforce this chapter.

(B) This Ordinance and any resulting Rules and Regulations may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition in accordance with the provisions of G.L. c. 40, §21D pursuant to Chapter 35, Section 35.05 of the Town Code.

§ 95.10 PENALTY.

(A) Any person who violates any provision of this chapter after receiving a warning, shall be fined \$100.00 for the first offense, \$200.00 for the second offense, \$300.00 for the third and subsequent offenses.

(B) Each subsequent day or part thereof of violation of this chapter, whether the violation be continuous or intermittent, shall be construed as a separate and succeeding offense.

§ 95.11 SEVERABILITY.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.

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APPENDIX A

A GUIDE TO NOISE

The intensity of noise is measured in decibels (db). Its measurement is logarithmic, which means that each decibel increase of ten, is a ten times increase in the level of noise:

130 is 10 times greater than 120

130 is 100 times greater than 110

A GUIDE TO THE NOISE INTENSITY

30 decibels is considered very quiet

50 decibels is considered moderately quiet

80 decibels is considered annoying

100 decibels is considered intolerable

140 decibels is considered threshold of pain

180 decibels is considered lethal