

(Approved by New Canaan Town Council October 11, 2006)

TOWN OF NEW CANAAN
ORDINANCE PROVIDING FOR
NOISE POLLUTION CONTROL

§1. Declaration of Policy.

The Town Council finds that inadequately controlled or excessive noise negatively affects the public health, safety, convenience, general welfare, and quality of life of persons within the Town of New Canaan, and that the people have a right to, and should be ensured of, an environment free from excessive and intrusive noise. This ordinance is enacted to preserve, protect and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of New Canaan, and to facilitate the enjoyment of the natural attractions and tranquility of the Town, through the reduction, control and prevention of excessive noise and vibration.

§2. Definitions.

The words and phrases used in or implicated by this ordinance, unless defined below, shall be construed with reference to the state statutes on Noise Pollution Control (Connecticut General Statutes § 22a-67 et seq.) and the related state regulations (Regulations of Connecticut State Agencies §22a-69-1 et seq.), as the same may be amended from time to time. In addition, the following words shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Decibel means a unit of measurement of the sound level, the symbol for which is dB.

Impulse Noise means noise of short duration, generally less than one second, especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition.

Noise means the intensity, frequency, duration and character of sounds from a source or number of sources. Noise includes vibrations of sub-audible or super-audible frequency.

Noise Level, A-Weighted means the sound pressure level as measured with a sound level meter using the A-Weighting network, the symbol for which is dBA.

Peak Sound Pressure Level means the absolute maximum value of the instantaneous sound pressure level occurring in a specified period of time.

Person means any individual, corporation, company, partnership, association, firm, group, or entity of any kind.

Receptor means a property or parcel of land where sound is heard or received from another property or parcel of land emitting the sound or noise.

§3. Noise Prohibited

The Town Council finds that certain noise producing activities and situations are of particular concern to persons within the Town of New Canaan, and therefore any violation of the following conditions or provisions is specifically prohibited:

- (a) An exterior burglar or intrusion alarm of a building, must be activated in such a manner that the alarm terminates its operation within five minutes for continuous airborne sound or for impulsive sound after it has been activated.
- (b) Motorized equipment or machinery with engines powered by electricity, gasoline or other fuel products, such as snow blowers, snow throwers, leaf blowers, leaf vacuums, lawn mowers, tractors, trimmers, chainsaws, wood chippers, log splitters, and generators, excluding motor vehicles, shall be operated at all times with a muffler in working order to abate the exhaust, combustion and explosive noises therefrom. In addition, with the exception of snow blowers and snow throwers, such equipment may not be operated in the following time periods such that the noise therefrom exceeds 45 dBA measured at the receptor's property line:

Mondays to Fridays: before 7:00 am, or
 after 7:00 pm

Saturdays, State or
Federal Holidays: before 8:00 am, or
 after 6:00 pm

Sundays: before 10:00 am, or
 after 4:00 pm

- (c) All motor vehicles operated within the limits of New Canaan, including without limitation, automobiles, motorcycles, recreational vehicles, all-terrain vehicles, snow mobiles, motorized dirt bikes, pocket bikes, go-carts, and racing vehicles, shall be subject to the noise standards and decibel levels established by the Connecticut Department of Motor Vehicles, set forth in the Regulations of Connecticut State Agencies §§ 14-80a-1a through 14-80a-10a, as the same may be amended from time to time.
- (d) Noise generated by construction (including demolition) equipment or machinery, such as bulldozers or backhoes, pile drivers, pneumatic tools, or by commercial or domestic power equipment such as, but not limited to, power saws, sanders, grinders, drills, nail guns, air hammers, vacuums, may not be operated in the following time periods such that the noise therefrom exceeds 45 dBA measured at the receptor's property line:

Mondays to Fridays: before 7:00 am, or
after 7:00 pm

Saturdays, State or
Federal Holidays: before 8:00 am, or
after 6:00 pm

Sundays: before 10:00 am, or
after 4:00 pm

- (e) Noise generated by refuse and solid waste collection activities from 8:00 pm to 7:00 am shall not exceed 45 dBA measured at the receptor's property line, or 80 dB peak sound pressure for impulse noise.

§4. Exclusions and Special Exemptions.

The following shall be exempt from this ordinance subject to any special conditions noted:

- (a) Bells, carillons or chimes associated with specific religious observances, or emanating from a building clock or school.
- (b) A public emergency sound signal.
- (c) Noise created as a result of, or relating to, an emergency, including emergency generators, and public health and safety emergencies.
- (d) Sound created by safety and protective devices.
- (e) Warning sounds required by OSHA or other state or federal safety regulations, provided they do not exceed the governmental standards.
- (f) Farming equipment or farming activity, as defined in §1-1 and qualified as tax exempt under §12-91 of the Connecticut General Statutes.
- (g) Noise created by parades, carnivals and other special public social events or celebrations after having attained a valid permit from the Town.
- (h) Noise created by or relating to recreational, sporting, concerts, or band events, provided that the events are permitted or sanctioned by the State or the Town, or conducted or sponsored by a not-for-profit organization. This provision shall not be construed to exempt music from commercial establishments or from residential properties.
- (i) Noise created by blasting provided that a permit for the blasting has been obtained from state or town authorities, and provided further that the blasting is conducted between 8:00 a.m. and 5:00 p.m. Mondays to Saturdays, exclusive of state or federal holidays.

- (j) Noise created by snow plows and snow removal equipment, provided that all motorized equipment complies with the other provisions of this ordinance pertaining to mufflers.
- (k) Noise created by fireworks displays sanctioned by the Town.
- (l) Noise created by aircraft.
- (m) Activities conducted by the Town in a governmental capacity, or by the state or federal agencies, or by their contractors, provided that contractors doing road work for the Town shall operate during hours specified by the Department of Public Works.

§5. Relation To Nuisance And Other Laws.

Nothing in this ordinance shall be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance with this ordinance is not a bar to a claim of nuisance by any person. A violation of this chapter shall not be deemed to create a nuisance per se. The provisions of this ordinance shall not be construed to prevent the enforcement of other ordinances, regulations, or statutes that prescribe other standards for the type of noise or sound involved.

§6. Severability.

If any provision or portion of this ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

§7. Violations And Fines.

This ordinance may be enforced by the New Canaan Police Department and/or by any municipal officer or employee designated by the First Selectman.

The Chief of Police shall develop procedures for enforcement of this ordinance, including but not limited to metering procedures and training of officers. All metering procedures and training shall be in accordance with the Regulations of Connecticut State Agencies §§ 14-80a-1a et seq. for motor vehicles noise, and §§ 22a-69-1 et seq. for non-motor vehicle noise.

The Police Department is hereby authorized to issue infraction ticket(s) to any person who violates any provision of this ordinance, and the amount of the fine shall be the maximum amount for infractions as set forth by the State of Connecticut Superior Court infractions schedules. Each violation shall constitute a separate offense.

Any municipal officer or employee designated by the First Selectman to enforce this ordinance may issue municipal citations to any person violating this ordinance, provided the officer or employee issues a written warning providing notice of the specific violation before issuing the citation, as required by General Statutes § 7-148(c)(10)(A). The fine for each violation shall be the greater of One Hundred Dollars (\$100.00) or the maximum amount allowed by § 7-148(c)(10)(A) of the Connecticut General Statutes, as

the same may be amended from time to time, for each day that a violation continues, until the noise is abated. The fine for each municipal citation shall be payable to the Treasurer of the Town of New Canaan. The issuance, payment, and procedure to contest a municipal citation shall be in accordance with Connecticut General Statutes § 7-152c and the Citation Hearing Procedure in Chapter 11 of the Code of the Town of New Canaan.

The provisions of this ordinance are in addition to, and not in lieu of, any other remedies available to the Town of New Canaan under the Connecticut General Statutes and other sections of the Town Code. The issuance of infractions tickets or municipal citations under this ordinance shall not preclude the exercise of such other remedies. In addition, the Town of New Canaan may seek injunctive relief and monetary penalties for continued or repeated violations.

§8. Variances.

- (1) Any person living or doing business in New Canaan may apply to the Director of Environmental Health for a variance from one or more of the provisions of Section 4 or Section 5 of this ordinance, provided that the applicant supplies all of the following information to the Director of Environmental Health:
 - (a) Location and nature of activity.
 - (b) The time period and hours of operation of said activity.
 - (c) The nature and intensity of the noise that will be generated.
 - (d) Any other information reasonably required by the Director of Environmental Health.
- (2) No variance from these regulations shall be issued unless it has been demonstrated that:
 - (a) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
 - (b) The noise levels generated by the proposed activity will not constitute a danger to the public health.
 - (c) Compliance with the ordinance constitutes an unreasonable hardship on the applicant, or the variance is justified by overriding interests affecting the public safety, health and welfare.
 - (d) In the judgment of the Director of Environmental Health, every reasonable effort has been made to reduce the level of the noise and the duration of the variance activity.
- (3) The application for variance shall be reviewed and either approved or rejected within 15 days of receipt by the Director of Environmental Health.

The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reasons for rejection. The variance may be approved with reasonable conditions, including without limitation a noise reduction or mitigation plan, and a time schedule for compliance. The Director of Environmental Health shall send a copy of any approved variance to the Police Department.

- (4) Failure to rule on the application in the designated time shall constitute approval of the variance.
- (5) Any person aggrieved by the decision of the Director of Environmental Health with respect to any variance may appeal to the Director of Health within a period of 14 days of the issuance of the Director of Environmental Health's decision.

§9. Repeal Of Prior Ordinance.

Section 39-3 of the Code of the Town of New Canaan is hereby repealed.