

Chapter 23 - NOISE<sup>[1]</sup>

Footnotes:

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**Editor's note**—Ord. No. 04-09, adopted Feb. 9, 2009, amended ch. 23, §§ 23-1—23-8 in its entirety to read as herein set out. Former ch. 23, §§ 23-1—23-8, pertained to noise. See the Code Comparative Table for complete derivation.

**Cross reference**—Amusements, Ch. 5; animals and fowl, Ch. 6; assemblies and parades, Ch. 7; auctions and auctioneers, Ch. 8; civic center and coliseum authority, Ch. 10; health and sanitation, Ch. 17; motor vehicles and traffic, Ch. 22; nuisances generally, Ch. 24; offenses and miscellaneous provisions, Ch. 25; parks and recreation, Ch. 26; peddlers, itinerant vendors and street vendors, Ch. 27; police, Ch. 29; streets and sidewalks, Ch. 31; vehicles for hire, Ch. 33; zoning regulations, Ch. 35.

**State Law reference**—Authority to prevent disturbing noises, G.S. § 7-148(c)(7)(H)(viii).

## Sec. 23-1. - Definitions.

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

*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 is exceeded ninety (90) percent of the time (L90) in which the measurement is taken.

*Chief of police* shall mean the chief of police of the City of Hartford or a duly authorized officer subject to his orders.

*Commercial zone* shall mean all commercial and business zones (C-1, B-1, B-2, B-3, B-4), as defined in the zoning regulations of the City of Hartford. 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.

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

*Day* shall mean 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* 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 be 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 City of Hartford 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 (I-1 and I-2) zones, as defined in the zoning regulations of the City of Hartford. 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 be 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 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.

*Noise* shall mean any sound, the intensity of which exceeds the standards set forth in section 23-3 of this chapter or that is plainly audible at a distance of one hundred (100) feet from its source.

*Night* shall mean 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 level* shall mean 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* 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:

- (1) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; and
- (2) 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 (RO-1, RO-2, RO-3, R-1 through R-8), P (public property and cemetery), as defined in the zoning regulations of the City of Hartford. 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).

*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).

(Ord. No. 04-09, 2-9-09)

Sec. 23-2. - Noise level measurement procedures.

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

- (1) Where and when a sound level meter is used:
  - a. All personnel conducting sound measurements shall be trained, including but not limited to training 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 instructions;
    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 (4) 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 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.
- (2) In the absence of a sound level meter, noise will be plainly audible when noise can be heard at a distance of one hundred (100) feet from its source, by a person of normal hearing.

(Ord. No. 04-09, 2-9-09)

Sec. 23-3. - 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 or industrial zones:
 

Emitter's zone:

Residential

Receptor's zone—Maximum level:

Industrial .....62 dBA

Commercial .....55 dBA

Residential/day .....55 dBA

Residential/night .....45 dBA

- (2) No person in a commercial 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:

Commercial

Receptor's zone—Maximum level:

Industrial .....62 dBA

Commercial .....62 dBA

Residential/day .....55 dBA

Residential/night .....45 dBA

- (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 .....70 dBA

Commercial .....66 dBA

Residential/day .....61 dBA

Residential/night .....51 dBA

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

- (c) In the absence of a sound level meter, any noise plainly audible pursuant to subsection 23-2(b) constitutes prima facie evidence of a violation of this section.
- (d) 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.
- (e) 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 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 activity.
- (f) 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, provided the operation of the same on Saturday has been approved by the director of licenses and inspections or the director of public works, which approval shall be applied for at least seven (7) days prior to the date for which approval is sought, and which approval shall be granted upon payment by the person in advance for the actual cost of such inspection services as may be required during such hours in accordance with rules and regulations adopted by the director of licenses and inspections or the director of public works in accordance with the provisions of sections 2-1 and 2-2; provided that the director of licenses and inspections or the director of public works or their respective designees, may, for good cause and upon reasonable condition(s) shown, upon application, made no less than seven (7) days prior to the proposed construction activity, and upon payment for all the actual costs of application and inspection services, allow construction work operations within the city without limitation as to days or hours of operation.
  - (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 city, 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 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 aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions;
  - (10) Noise created by products undergoing tests, where one (1) of the primary purposes of the test is evaluation of product noise characteristics and where practical noise control measures have been taken;
  - (11)

Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical power, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements.

(Ord. No. 04-09, 2-9-09)

Sec. 23-4. - 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 the purpose of attracting attention to any performance, show or sale, or to the display or advertisement of merchandise.

(Ord. No. 04-09, 2-9-09)

Sec. 23-5. - Motor and recreational vehicle noise.

- (a) All motor and recreational vehicles operated within the limits of the City of Hartford shall be subject to the noise standards and decibel levels as found in G.S. Title 14, § 14-80a, which states in pertinent part that:
  - (1) No person shall operate a vehicle or combination of vehicles, nor shall the owner of any vehicle allow the vehicle to be operated, at any time or under any condition of grade, surface, speed, load, acceleration, deceleration or weather condition in such a manner as to exceed the decibel levels established under subsection (c) of this section. This subsection applies to the total noise generated by a vehicle and shall not be construed as limiting or precluding the enforcement of any other motor vehicle noise provisions of this title.
  - (2) No person shall sell or offer for sale a new vehicle which produces a maximum decibel level which exceeds the decibel levels established under subsection (c) of this section.
  - (3) The commissioner of motor vehicles shall, with the advice of the commissioner of environmental protection, adopt regulations in accordance with the provisions of chapter 54 establishing the maximum decibel levels permissible for motor vehicles, which shall not exceed the maximum decibel levels established for motor vehicles by federal law or regulation. The commissioner of motor vehicles shall establish the procedure for checking maximum decibel levels. The decibel level shall be measured fifty (50) feet from the centerline of the vehicle. The commissioner of motor vehicles may provide for measuring at distances closer than fifty (50) feet from the centerline of the vehicle. In such a case, the measuring devices shall be calibrated to provide for measurements equivalent to the noise limit established by this section measured at fifty (50) feet.
  - (4) Violation of the provisions of this section shall be an infraction.
- (b) No motor or recreational vehicles shall emit noise from a loud amplification device or similar equipment plainly audible at a distance of one hundred (100) feet from such vehicles by a person of normal hearing, except that loud speakers or public address systems are allowed provided prior to use thereof a permit has been obtained from the Hartford Police Department.

(Ord. No. 04-09, 2-9-09)

Sec. 23-6. - Inspections.

- (a) For the purpose of determining compliance with the provisions of this chapter, 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 chapter.

(Ord. No. 04-09, 2-9-09)

#### Sec. 23-7. - Enforcement.

- (a) Any person aggrieved by any act constituting a violation of this chapter may complain to the police department who shall enforce this chapter.
- (b) The police are also authorized to enforce this chapter without any such complaint.

(Ord. No. 04-09, 2-9-09)

#### Sec. 23-8. - Penalties.

A person who violates any provision of this chapter shall be summoned or brought to community court pursuant to G.S. § 51-181c. A person who is summoned or brought before the community court cannot invoke any of the appeal rights provided by section 1-5 of the Hartford Municipal Code. The superior court judge assigned to the community court may impose a penalty of community service, a fine up to ninety dollars (\$90.00) or a jail sentence up to twenty-five (25) days to any person who is convicted of violating any provision of this chapter.

(Ord. No. 04-09, 2-9-09)