

Manchester, NH Code of Ordinances

CHAPTER 94: NOISE REGULATIONS

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Statutory reference:

Authority of city to regulate noise, see R.S.A. 47:17 (II) & (XV)

GENERAL PROVISIONS**§ 94.01 PURPOSE.**

It is the policy of the Board of Mayor and Aldermen of the city to protect, preserve and promote the health, safety, welfare, peace and quiet of the citizens of Manchester through the reduction, control and prevention of noise. It is the intent of this chapter to establish standards that will eliminate and reduce unnecessary environmental noise throughout the community which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(Ord. passed 9-5-06)

§ 94.02 SCOPE.

This chapter shall only apply to noise originating within the city limits of the city that is traveling in the atmosphere or environment. This chapter shall apply to all bodies of water within the city limits of the city, irrespectively if they flow through or are contained partially or entirely within the city limits.

(Ord. passed 9-5-06)

§ 94.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT SOUND LEVEL. The A-weighted sound level of all sound associated with a given environment, exceeded 90% of the time measured and being a composite of sounds from many sources during the period of observation while the sound from the noise source of interest is not present.

ANSI. The American National Standards Institute.

ANSI S SERIES STANDARDS. Those ANSI standards relevant to sound, acoustics, shock, vibration and bioacoustics.

A-WEIGHTED SOUND PRESSURE. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

COMMERCIAL POWER EQUIPMENT. Any equipment or device rated at more than five horsepower and used for building repairs or property maintenance excluding snow removal equipment.

COMMERCIAL PREMISES. Any land parcel with buildings where the use of less than 50% of the gross floor area meets the definition of residential premises. Includes locations of various scale operating as retail, automotive use, restaurant, governmental, financial, entertainment and cultural and shopping centers as identified pursuant to the Manchester Zoning Ordinance.

CONSTRUCTION EQUIPMENT. Any device or mechanical apparatus operated by fuel, electric, or pneumatic power in the excavation, construction, repair, or demolition of any building, structure, land parcel, street, alley, waterway, or appurtenance thereto.

DECIBEL. A logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

DOMESTIC POWER EQUIPMENT. Any equipment or device rated at five horsepower or less and used for building repairs or grounds maintenance excluding snow removal equipment.

EMERGENCY VEHICLE. An authorized motor vehicle that has sound warning devices such as whistles, sirens and bells which can lawfully be used when responding to an emergency, during a police activity or which is required by state or federal regulations (i.e., reverse alarms).

EMERGENCY WORK. An activity made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from exposure to imminent danger. It includes work by private or public entities for providing or restoring immediately necessary service as well as all situations deemed necessary by the city.

EMERGENCY POWER GENERATOR. The equipment used to generate electrical power in the event of an interruption, malfunction or failure of the electrical power supplied by the service provider.

GROSS FLOOR AREA. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets,

the thickness of interior walls, columns or other features. The floor area of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

INDUSTRIAL PREMISES. Any premise where the production of goods, materials or knowledge takes place. May include locations for manufacturing, warehousing, research and development, distribution or other selected offices as identified pursuant to the Manchester Zoning Ordinance.

MOTOR VEHICLE. Any vehicle that is self-propelled, used primarily for transporting persons or property upon public roadways and required to be licensed according to motor vehicle registration laws. The term motor vehicle shall not include: aircraft, watercraft, motor vehicles operated on private property for recreational or amusement purposes, vehicles used exclusively on stationary rails, or specialized utility vehicles normally used only on private property in the daily course of business such as forklifts, and pallet movers.

NOISE. Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

NOISE VARIANCE. Specific relief from the terms of this chapter as granted by the Noise Variance Board.

PERSON. An individual, corporation, partnership, association, organization or similar entity.

PREMISES. Any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

PROPERTY LINE. The real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building, condominium, or townhouse complex shall not be considered property lines separating one property from another.

PUBLIC PREMISES. All real property including appurtenances thereon which is owned or controlled by any governmental entity and shall include streets, alleys, parks and waterways.

RECEPTOR PREMISES. The premises (residential, commercial, industrial, or public) as listed in § 94.10, Table A which is receiving noise emitted from the source premises after crossing one or more property lines. Also referred to as the receiving premise.

RESIDENTIAL PREMISES. Any premises where single or multiple dwelling units exist and shall include primary schools, churches, nursing homes and similar institutional facilities including any commercial premises where the use of more than 50% of the gross floor area meets this definition of residential premise.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication S1.4 entitled Specification for Sound Level Meters.

SOUND PRESSURE LEVEL. Twenty times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter (20×10^{-6} Newtons/meter²) and is expressed in decibels (dB).

SOURCE PREMISES. The premises (residential, commercial, industrial, or public) as listed in § 94.10, Table A that is emitting noise that is crossing one or more property lines and impacting the receptor

premises.

SNOW REMOVAL EQUIPMENT. Any equipment used for removing snow from land or building surfaces and shall include snowplows, snow blowers, snow sweepers, and snow shovels.

TABLE A. The reference table contained in § 94.10 that details the maximum allowable noise levels for all premises in the city, including a time of day allowance. Measurements of noise levels are made at the property line of the receiving premises.

TABLE B. The reference table contained in § 94.12 that details the maximum allowable noise levels for all motor vehicles operating in the city during any time of the day or night. Measurements of noise levels are made 25 feet from the source motor vehicle.

TREE MAINTENANCE EQUIPMENT. Any equipment used in trimming or removing trees only and shall not be limited to chainsaws, chippers and stump removers.

(Ord. passed 9-5-06)

§ 94.04 ENFORCEMENT.

The Chief of Police or his or her designee shall have and exercise the power to enforce the provisions of this chapter. Licenses or permits issued pursuant to this chapter shall also be enforced by a designee of the Office of the City Clerk. Enforcement shall include entering areas of public access or operation, free of charge, to ensure compliance and issuance of citations for any violations with penalties to be assessed as provided in § 94.43.

(Ord. passed 9-5-06)

§ 94.05 MEASUREMENTS.

For the purposes of this chapter, the measurement of all physical parameters or entities associated with acoustics, sound, noise, or vibration shall comply with the most recent S series standards of ANSI, American National Standards Institute, Standards for Sound, Acoustics, Shock and Vibration, Bioacoustics. Furthermore, all physical parameters, or entities determined or calculated from such measurements relevant to acoustics, shock, vibration or bioacoustics shall be determined or calculated in accordance to the most recent S series standards of ANSI where so applicable.

(Ord. passed 9-5-06)

§ 94.06 SUBMISSION OF FEES.

Fees for permits, applications and licenses shall be submitted with the applications under this chapter and shall be considered nonrefundable.

(Ord. passed 9-5-06)

MINIMUM STANDARDS

§ 94.10 NOISE LEVELS.

Noise levels shall be measured at any point along the property line or within the property line of the

receiving premises to determine compliance of the source. When it is determined that the ambient sound level at the receiving premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the ambient sound level is the standard which cannot be exceeded by the source. The following table identifies allowable noise levels within various areas throughout the city:

TABLE A
Maximum Allowable Noise Levels (in dBA) with Time of Day Allowance

<i>Source Premises</i>	<i>Receptor Premises</i>							
	Residential		Commercial		Industrial		Public	
	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
Residential	55	50	65	60	80	75	75	70
Commercial	55 [60]	50 [60]	65	60	80	75	75	70
Industrial	55 [65]	50 [65]	65	60	80	75	75	70
Public	55 [60]	50 [60]	65	60	80	75	75	70
Body of Water	55	50	65	60	80	75	75	70
(The numbers in brackets are the allowable limits that comply with § 94.11(N).)								

(Ord. passed 9-5-06)

§ 94.11 EXEMPTIONS.

The maximum permissible sound pressure levels as specified in § 94.10, Table A shall not apply to sounds emitted from:

- (A) Any bell or chime from any building clock, school or church, not including any amplified bell or chime sounds emitted from loudspeakers.
- (B) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger.
- (C) Any aircraft in flight subject to federal law regarding noise control.
- (D) Any ground-based aircraft activity including testing or engine run-up noise.
- (E) Any motor vehicles designed for and operated on public streets, alleys, highways or freeways that are regulated by § 94.12, Table B.
- (F) Any tree maintenance equipment operated upon a residential, commercial, industrial or public premises provided that operation of tree maintenance equipment between the hours of 9:00 p.m. and 7:00 a.m. shall not exceed the maximum noise levels as specified in § 94.10, Table A.
- (G) Any construction equipment or activities in compliance with § 94.42(F).
- (H) Any domestic power equipment operated upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure level of 80 dBA when measured at the property line of the receiving premise.
- (I) Any commercial power equipment operated upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure

level of 88 dBA when measured at the property line of the receiving premise.

(J) The musical instruments of any school marching band while performing at any sporting event or marching band competition, and the musical instruments of any school marching band practicing on school grounds between the hours of 9:00 a.m. and 8:00 p.m. that do not exceed 65 dBA when measured at the property line of the receiving residential premise.

(K) Following a snowstorm, snow removal equipment operated on any premises between the hours of 5:00 a.m. and 10:00 p.m. provided that such equipment does not exceed the sound pressure limits for commercial power equipment (88 dBA) or domestic power equipment (80 dBA) when measured at the property line of the receiving premise.

(L) Any power generator providing emergency electrical power at any hospital, health clinic, nursing home or similar facility where the loss of electrical power creates an immediate risk to the health, safety or welfare of any person, or at any premises where such equipment is required by the Fire Department. Additionally, the noise emitted during the routine testing of emergency electrical power generators shall not exceed 88 dBA when measured at the property line of the receiving premise. Routine testing shall not exceed one hour in any one-week period, or two hours in any six-week period and shall be confined to the hours of 10:00 a.m. to 4:00 p.m. or as otherwise approved.

(M) Any industrial, commercial, or public premises exceeding the standards of § 94.10, Table A at a receiving residential premises when the zoning of the receiving residential premises does not allow residential use (residential use is nonconforming). However, in such a situation, the noise emitted by the industrial, commercial, or public premises shall not exceed the standards for receiving industrial premises.

(N) Any industrial, commercial, or public premises exceeding the standards of § 94.10, Table A at a receiving residential premises when such industrial, commercial, or public premises and their emitted noise level were in existence prior to the existence of the residential premises, provided however that the existing industrial premises does not exceed 65 dBA and the commercial premises do not exceed 60 dBA when measured at the receiving residential premises.

(O) Any water craft or noise emanating from or on a body of water between the hours of 7:00 a.m. and 10:00 p.m. provided that such noise does not exceed a sound pressure level of 88 dBA when measured at the property line of the receiving property and further provided that between 10:00 p.m. and 7:00 a.m. such equipment does not exceed the maximum sound pressure levels as specified in § 94.10, Table A.

(P) Any city-sponsored fireworks display or a fireworks display approved by the city in conjunction with a specific licensed event and emanating from city property, a public recreational area, or a civic stadium.

(Ord. passed 9-5-06; Am. Ord. passed 7-5-11)

§ 94.12 MOTOR VEHICLES.

All noise levels from motor vehicles shall be measured at 25 feet from the source vehicle to determine compliance. Except where preempted by state law the standards in Table B shall apply to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and whether or not in motion.

TABLE B
Maximum Allowable Noise Levels for Motor Vehicles

Type of Vehicle	Time Period	Maximum Allowable Sound Pressure Level measured in dBA	Measurement Distance from Motor vehicle
Motor vehicles			

weighing less than 10,000 pounds, manufacturers gross vehicle weight	At any time	80	25 feet
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(Ord. passed 9-5-06)

ADMINISTRATION AND ENFORCEMENT

§ 94.40 NOISE VARIANCE BOARD.

(A) It is recognized that in initiating community noise limits, any number of unanticipated situations may occur. Although the city is primarily concerned with protecting, preserving and promoting the health, safety, welfare and peace and quiet of the citizens of Manchester, the city realizes that there may be preexisting conditions that need an extended period of time to conform to the noise limits imposed by this chapter. The city also recognizes that events or incidents can occur where there was every good faith expectation of complying with the noise limits imposed by this chapter, but for some unforeseen circumstance, those events or incidents failed to comply.

(B) This section hereby establishes a Noise Variance Board in which members shall approve or deny variances to this chapter, hereinafter referred to as a noise variance. The Board shall consist of the Committee on Administration of the Board of Mayor and Aldermen.

(Ord. passed 9-5-06)

§ 94.41 APPLICATION PROCEDURES.

Applications must be submitted to the Office of the City Clerk. General guidelines may be considered in the issuance of a noise variance. These guidelines are not all inclusive and other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of noise upon the community. The guidelines are as follows:

(A) Variances shall be granted prior to or in anticipation of an event.

(B) The city reserves the right to grant a variance after the fact if it is deemed by the Noise Variance Board to be in the public good, if the Board believes that an honest, fair and reasonable attempt was made to comply with the noise limits imposed by this chapter, or the failure to comply was due to some unforeseen circumstance.

(C) A variance for the continuation of a non-complying activity may be granted after a reasonable attempt was made to comply and may contain such stipulations as the Board may deem necessary to protect the public that may include, but is not limited to:

- (1) Regulation of times;
- (2) The erection of noise barriers, shielding or other noise abatement; and
- (3) A demonstration of compliance progress.

(D) The applicant bears the burden of presenting evidence sufficient to allow the Noise Variance Board to reach conclusions and make findings to support the authorization of a variance.

(E) The Board may require a public hearing on a certain matter to permit abutting landowners to present

written or oral testimony for consideration of granting or denying a variance.

(F) The Board may request review and recommendations from various city departments including the Public Health Director, Director of Planning and Community Development, Chief of Police, City Clerk or their designees. Testimony of department representatives may be requested at a variance hearing.

(G) Final decisions shall be made available within 72 hours after a vote on an application. A written decision will be mailed to the applicant with copies made available to the Departments of Health, Police and City Clerk.

(H) In granting a variance, the Board may impose such conditions or stipulations as it deems necessary and proper in order to preserve the intent of this chapter.

(I) All decisions by the Noise Variance Board are final and may not be appealed to any other municipal board, committee or commission.

(J) As community noise is a public health concern, noise variances shall only be granted for a reasonable period of time, not more than two years.

(K) The renewal of a variance after two years requires the consent of the Board of Mayor and Aldermen.

(L) Variances shall not be granted for continued or sustained violations that may be physically injurious to one or more persons as determined by the Public Health Director.

(M) Once an application has been denied by the Noise Variance Board, the same application may only be considered if the Board finds that the application is materially different in nature and degree from the prior application.

(Ord. passed 9-5-06; Am. Ord. passed 2-7-09)

§ 94.42 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any city board, committee, commission or any employee of the city, in an attempt to deceive or otherwise avoid compliance with this chapter.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized person while in the performance of their duties under this chapter.

(C) Emit or cause to be emitted any noise which leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels during the time periods as specified in § 94.10, Table A, without a variance.

(D) Emit or cause to be emitted any noise within the public premises in excess of the limits defined in § 94.10, Table A without a variance.

(E) [Reserved]

(F) Operate any construction equipment or conduct any construction activities between the hours of 9:00 p.m. and 7:00 a.m. that exceed the noise limits of § 94.10, Table A. The city may grant variances from the construction restrictions if it can be demonstrated that a construction project will interfere with traffic if completed during daytime hours.

(G) Operate any trash compacting mechanism on any motor vehicle, or engage in any trash, rubbish or garbage collection activity between the hours of 10:00 p.m. and 7:00 a.m., when such activity takes place on any premises adjacent to a residential premises.

(H) Operate or permit the operation of any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds the noise limits for the category of motor vehicle and for the designated time period as specified in § 94.12, Table B.

(I) Sound any horn or other audible signal device of an automobile, motorcycle, streetcar, or other vehicle unless it is necessary as a warning to prevent or avoid a traffic accident or reasonably inform or warn of a vehicle presence.

(J) Modify or change the exhaust muffler, air intake muffler or any other sound reducing device in such a manner that the noise emitted from the motor vehicle exceeds the sound pressure levels as established in § 94.12, Table B except where permitted by state law.

(K) The noise limits in § 94.10, Table A and § 94.12, Table B notwithstanding, no person shall:

(1) Make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.

(2) Use, operate or permit to be played, used or operated of any radio, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the inhabitants of a neighboring premises. The operation of any such set, instrument, phonograph, machine or device by a commercial establishment between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the lot line, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) Use, operate, or permit to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure in such a manner that the occupants of a neighboring premises disturbed or annoyed.

(4) Yell, shout, hoot, whistle, or sing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in neighboring premises.

(5) Keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in a neighboring premises.

(6) Use any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(7) Transport rails, pillars, or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(Ord. passed 9-5-06)

§ 94.43 PENALTIES.

(A) Each act of violation of § 94.42 and every day upon which any such violation shall occur in one calendar year shall constitute a separate offense and follow the penalty schedule below:

(1) First offense: A citation shall be issued to the offender in the amount of \$100.

(2) Second offense: A citation shall be issued to the offender in the amount of \$250.

(3) Third offense: A citation shall be issued to the offender in the amount of \$500.

(4) Fourth and subsequent offenses: A citation shall be issued to the offender in the amount of \$1,000.

(B) If the court finds for the city, the city shall recover its costs of suit including reasonable expert fees, attorney fees and necessary investigate costs.

(Ord. passed 9-5-06)