

## Sec. 40-13. - Noise.

(a) *Maximum noise levels.* It is declared to be a nuisance and shall be unlawful for any person, partnership, association or corporation to make, cause or allow to be made from any premises that is owned, occupied or controlled by such person upon any residential use or zone, public street, thoroughfare or right-of-way:

(1) Any unnecessary noise or sounds which equal or exceed the following limits:

## MAXIMUM PERMISSIBLE NOISE LEVEL

8:00 a.m.—10:00 p.m.	<u>60</u> dBA
10:00 p.m.—8:00 a.m.	50 dBA

and which are physically annoying to persons or which are harsh, prolonged, unnatural or unusual in their time, place and use so as to cause physical discomfort, or are injurious to the health, safety and welfare of the citizens of the city; or

(2) Any noise which exceeds the ambient noise level by ten dBA or more, when measured at the nearest property line or, in the case of multiple-family residential buildings, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, and which is physically annoying to persons or which is harsh, prolonged, unnatural or unusual in its time, place and use so as to cause physical discomfort, or is injurious to the health, safety and welfare of the citizens of the city.

Ambient noise is defined as all-encompassing noise associated with a given environment, being a composite of sounds from many sources, near and far. For the purpose of this section, ambient noise level is the average over 15 minutes excluding random or intermittent noises and the alleged offensive noise at the location and time of day at which a comparison with an alleged offensive noise is to be made.

Averaging may be done by instrumental analysis in accordance with American National Standard S.13-1995, or may be done manually as follows:

- a. Observe a sound level meter for five seconds and record the best estimate of central tendency of the indicator needle, and the highest and lowest indications.
- b. Repeat the observations as many times as necessary to provide that observations be made at the beginning and at the end of the 15-minute averaging period and that there shall be at least as many additional observations as there are decibels between the lowest indication and the highest high indication.
- c. Calculate the arithmetical average of the observed central tendency indications.

(3) Any noise emanating from private property which is plainly audible by a person of reasonably sensitive hearing at a distance of 100 feet or any noise which constitutes a substantial disturbance of the quiet enjoyment of private or public property as a result of conduct constituting a violation of law shall be a violation of this section. Illustrative, but not exhaustive or exclusive of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, illegal parking, public drunkenness, public urination, the service of alcohol to minors, fights, disturbances of the peace, and litter.

(b)

*Noise level measurements.* For noise other than any noise emanating from private property which is plainly audible by a person of reasonably sensitive hearing at a distance of 100 feet or any noise which constitutes a substantial disturbance of the quiet enjoyment of private or public property as a result of conduct constituting a violation of law, noise level measurements should be taken at the property line of the noise generator which is closest to the residential use or zone, public street, public or private right-of-way, alley or thoroughfare that is being affected. All measurements shall be made with a sound level meter having an A-weighted scale, containing both fast and slow meter response capability and constructed in accordance with specifications as contained in the standards of the American National Standards Institute.

- (c) *Response to complaints.* Upon receiving a complaint of excessive noise, the building official and/or the police department will respond to determine compliance or noncompliance with this section.
- (d) *Mailing of notice to property owner.* Notice of police intervention pursuant to this section shall be mailed to any property owner of the City of Warwick Property Tax Assessment Records and shall advise the property owner that any subsequent such intervention within 60 days on the same premises shall result in liability of the property owner for all penalties associated with such intervention as more particularly set forth below:
- (e) *Persons liable for a subsequent response to a gathering constituting a public nuisance.* If the police department is required to respond to a gathering constituting a public nuisance on the premises more than once in any 60-day period, the following persons shall be jointly and severally liable for fines as set forth below:
  - (1) The person or persons who own the property where the gathering constituting the public nuisance took place, provided that notice has been mailed to the owner of the property as set forth herein and the gathering occurs at least two weeks after the mailing of such notice.
  - (2) The person or persons residing on or otherwise in control of the property where such gathering took place.
  - (3) The person or persons who organized or sponsored such gathering.
  - (4) All persons attending such gatherings who engage in any activity resulting in the public nuisance.
  - (5) Nothing in this section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering for the conduct of persons who are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises, including landlords who are actively attempting to evict a tenant from the premises.

Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor or resident for the purposes of determining whether the event constitutes a public nuisance under this section.

- (f) *Penalty.* Violation of this section, except those under section (a)(3), shall be punishable by a fine of \$50.00 for the first and second offense by a person. The fine may be paid by mail or in person at the city municipal court. Upon the third and each subsequent violation of this section, a person shall be subject to the penalties set forth in section 1-4 of the Code.
  - (1) *Penalties for gatherings deemed a public nuisance under section 40-13(a)(3).* It shall be an ordinance violation punishable by the following schedule when a violation at the same location occurs within a 60-day period after an initial violation.
    - a. For the second violation in a 60-day period, the fine shall be a minimum mandatory \$250.00;
    - b. For the third violation in a 60-day period the fine shall be a minimum mandatory \$350.00;
    - c. For any fourth or subsequent violation in a 60-day period the fine shall be a minimum mandatory \$500.00.

(g)

*Special exceptions.* As part of its licensing and permitting procedure for events within the city, the board of public safety may grant a special exception to the enforcement of this section on a case-by-case basis and with the special exception limited to specific dates and specific times on those dates.

(Code 1971, § 13-16; Ord. No. O-96-30, § I, 12-16-96; Ord. No. O-97-8, § I, 4-14-96; Ord. No. O-97-15, § I, 6-16-97; Ord. No. O-00-16, § I, 5-11-00; Ord. No. O-06-29, § I, 10-16-06)

**Cross reference—** Noisy animals, § 4-14; noisemaking devices prohibited in public recreation facilities, § 58-6; vehicle loads causing unnecessary noise, § 76-82.

Sec. 40-14. - Operation of mobile sound equipment in residential areas.

It shall be unlawful to operate mobile sound equipment in residential areas in this city.

Violation of this section shall be punishable by a fine of \$50.00 for the first and second offense by a person. The fine may be paid by mail or in person at the city municipal court. Upon the third and each subsequent violation of this section, a person shall be subject to the penalties set forth in section 1-4 of the Code.

(Code 1971, § 13-17; Ord. No. O-00-16, § I, 5-11-00)

**Cross reference—** Streets and sidewalks, ch. 70; traffic, ch. 76.