

CHAPTER 17

NOISE CONTROL

Art. I. Noise Control - In General, §§17-1--17-12

ARTICLE I. NOISE CONTROL - IN GENERAL

SECTION 17-1. NOISE CONTROL

This chapter may be cited as the "Noise Control Ordinance of the City of Winchester", and shall be applicable to the control of noises originating within the corporate limits. (Ord. No. 005-86, 5-13-86; Ord. No. 046-95, 9-12-95)

SECTION 17-2. DECLARATION OF FINDINGS AND POLICY.

The city council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace, safety, and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace, and safety or degrade the quality of life; and that it is the policy of the City of Winchester to prevent such excessive sound. (Ord. No. 005-86, 5-13-86)

SECTION 17-3. DEFINITIONS

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

- (a) A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.
- (b) Commercial purpose. The use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting

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patronage or customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

- (c) Daytime. The local time of day between the hours of 6:00 A.M. and 10:00 P.M.
- (d) Decibel (dB). A unit for measuring the volume of a sound equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).
- (e) Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- (f) Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (g) Gross vehicle weight rating (GVWR). The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.
- (h) Motor carrier vehicle engaged in interstate commerce. Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.
- (i) Motorcycle. Any motor vehicle designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred pounds and equipped with an engine of less than six horsepower, excepting farm tractors.
- (j) Motor vehicle. Any self-propelled device or device designed for self-propulsion upon or by which any person or property is, or may be, drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.
- (k) Nighttime. The local time between the hours of 10:00 P.M. and 6:00 A.M.
- (l) Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (m) Property. The smallest area owned or leased by the same person or persons.

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- (n) Property line. An imaginary line along the ground surface, and its vertical extension, which separates the real property, including the dwelling units within a structure owned by one person, from that owned or leased by another person.
- (o) Residential zone. Any location within an LR, MR, HR, HR-1, RB-1, or RO-1 district as shown on the city zoning map.
- (p) Sound. An oscillation in pressure, particle displacement particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound including duration, intensity, and frequency.
- (q) Sound level. The weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.
- (r) Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.
(Ord. No. 005-86, 5-13-86; Ord. No. 2011-21, 10-11-11; Ord. No. 2011-46, 11-8-11)

SECTION 17-4. ADMINISTRATION AND ENFORCEMENT.

The noise control program established by this section shall be enforced and administered by the chief of police with the assistance of other city departments as required.
(Ord. No. 005-86, 5-13-86)

SECTION 17-5. TESTING OF METERING DEVICES.

In order to implement and enforce this section effectively, the chief of police shall, within a reasonable time after the effective date of same, develop and promulgate standards and procedures for testing and validating sound level meters used in enforcement of this section. (Ord. No. 005--86, 5-13-86)

SECTION 17-6. NOISES PROHIBITED - ENUMERATION.

The following acts shall be unlawful:

1. The sounding of any vehicular horn or other sound signaling device on any motor vehicle on any street or public place except as an emergency warning signal so as to create any unreasonably loud or harsh sound for any unnecessary and

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unreasonable period of time. Sounding of such horn or other device more than once every two minutes in any one city block and with a duration of more than five (5) seconds for any single emission shall be prima face evidence of violation of this section.

2. To play, operate, or permit the operation or playing of any radio, television, phonograph, tape player, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound such that it exceeds the greater of:
 - (a) 80 dBA measured 50 feet from its source, or 65 dBA when measured inside any business or office receiving the sound during operating hours, said measurement being taken at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed, or
 - (b) 10 dBA greater than the ambient noise level, when measured as in (a) above.
3. The creation of any excessive noise on any street adjacent to any school/institution of learning, church, public library, or court while the same is in use, or adjacent to any hospital or nursing home which unreasonably interferes with the working of such institution or which disturbs or unduly annoys patients in the hospital or nursing home, provided conspicuous signs are displayed in such streets indicating that the same is a school, court, church, hospital, nursing home or public library.
4. To permit, operate or cause any source of sound to create a sound level in another person's residential dwelling in excess of 65 dBA when measured inside the receiving structure at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.
(Ord. No. 005-86, 5-13-86; Ord. No. 2011-46, 11-8-11)

SECTION 17-7. MAXIMUM NIGHTTIME SOUND LEVELS IN RESIDENTIAL ZONES.

No person shall operate or cause any source of sound in such a manner as to create a sound level in a residential zone during the hours between 10:00 P.M. and 6:00 A.M. in excess of 60 dBA when measured at the property boundary of the receiving land. The foregoing shall not be deemed to include sound generation from any bona fide agricultural activity, including noise caused by livestock. (Ord. No. 005-86, 5-13-86)

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SECTION 17-7.1 MAXIMUM SOUND LEVELS FOR PROPERTIES ZONED B-1 AND B-2 DURING SPECIFIED HOURS

- (a) Notwithstanding any other provision of this Chapter, except as excluded pursuant to Section 17-10, between the hours of 6:00 p.m. and 11:59 p.m. Monday through Thursday, and 6:00 p.m. through 1:30 a.m. Friday through Saturday night/Sunday morning it shall be unlawful for any person or business to cause or intentionally allow to be created which creates a sound level in another person’s residential dwelling or business during hours in which said business is open in excess of 65 dBA when measured inside the receiving structure at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.
- (b) Except as defined in paragraph (a), the provisions of Section 17-6 shall apply.
- (c) Nothing in this Section shall be construed as an exemption from the provisions identified in Section 17-6 (1) or (3).
(Ord. No. 2011-46, 11-8-11)

SECTION 17-8. MOTOR VEHICLE MAXIMUM SOUND LEVELS.

- (a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle when measured at a distance of fifty feet or more exceeds the level set forth in the following table:

	Sound level in dBA	
	Speed Limit 35 M.P.H. or less	Speed Limit Over 35 M.P.H.
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	76
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

- (b) The foregoing provision shall not apply to any motor carrier vehicle engaged in interstate commerce, as defined in subsection 14-17.2(h). (Ord. No. 005-86, 5-13-86)

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SECTION 17-8.1 PROHIBITED NOISE FROM MOTOR VEHICLE SOUND SYSTEM.

No person within the city limits shall operate or permit the use or operation of any radio, tape player, compact disc player, or any other device which produces, reproduces, or amplifies sound in a motor vehicle, in such a manner that the sound can be heard more than fifty (50) feet from the motor vehicle. (Ord. No. 004-98, 2-10-98)

SECTION 17-9. USE OF LOUDSPEAKERS FOR ADVERTISING PURPOSES.

- (a) It shall be unlawful for any person to operate for commercial advertising purposes any loudspeaker or other like device or mechanism used to emit sound of any kind, which loudspeaker or other like device or mechanism is attached to or installed in any vehicle, when the vehicle is being driven, drawn, or parked along or upon the streets of the City.
- (b) It shall be unlawful for any person to use any machine or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting attention of the public to any building, structure, or activity during the nighttime.
(Code 1959, 16-3; Ord. No. 005-86, 5-13-86)

SECTION 17-10. EXCEPTIONS.

The provisions of this chapter shall not apply to:

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency;
- (b) The emission of sound in the performance of emergency work;
- (c) Parades, fireworks displays, and other organized public activities authorized by permit issued by an official of the City.
- (d) The emission of sound in the performance of construction or demolition work authorized by permit issued by the city building official, or performed by City forces or forces under contract to the City, so long as such work is not performed during the nighttime.
(Ord. No. 005-86, 5-13-86; Ord. No. 046-95, 9-12-95)

SECTION 17-11. PENALTIES.

- (a) Any person who violates any provision of this chapter shall be deemed to be guilty of a Class III misdemeanor.
- (b) Each violation of any provision of this section shall constitute a separate offense.
- (c) The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue.
(Ord. No. 005-86, 5-13-86; Ord. No. 046-95, 9-12-95)

SECTION 17-12. SEVERABILITY.

Should any subsection, sentence, clause or phrase of this chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the chapter in its entirety or of any part thereof other than that portion declared to be invalid.
(Ord. No. 005-86, 5-13-86; Ord. No. 046-95, 9-12-95)

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