

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN that Sec. 13-20. Middletown Noise Control Ordinance be added to Chapter 13 of the Middletown Code of Ordinances to read as follows:

Sec. 13-20. Middletown Noise Control Ordinance.

A. Purpose

It is recognized that the people of the City of Middletown have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or safety or welfare or degrade the quality of life. This Section is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Middletown through the reduction, control and prevention of noise.

B. Exceptions to Ordinance.

Pursuant to Connecticut General Statutes, Section 22a-73, as amended, the City of Middletown by this ordinance intends to protect, preserve and promote the public health, safety and welfare insofar as they are affected by the creation and maintenance of excessive or unnecessary noise as defined by this section. This section shall apply uniformly to the creation and maintenance of all noises in the City of Middletown except for the following user's activities:

1. Noises of emergency pressure relief valves and sound signals, including but not limited to sirens, horns and beepers, in the event of an actual emergency;
2. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
3. Noises of the workplace which are covered by OSHA regulations and standards except that noises emitted from a place of work which affect the general public shall be governed by this Chapter;
4. Sound generated by natural phenomena, including but not limited to wind, storms, insects, birds and water flowing in its natural course, except that noises emitted from domestic animals, birds or pets shall be governed by this Chapter;
5. Sound created by bells, carillons or chimes associated with specific religious observances;
6. Farming equipment and/or farming activity;
7. Backup alarms required by OSHA or other state or federal regulations;

Passed and Adopted  
by Common Council,  
City of Middletown  
at its Meeting held  
on

12/2/91

8. Conditions caused by natural phenomena, strike, riot, catastrophe or other conditions over which the apparent violator has no control;
9. Noise generated by engine powered or motor driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m., provided that noise discharge from exhaust is adequately muffled to prevent loud and/or explosive noises therefrom;
10. Noise created by snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise and noise discharge from exhaust should be adequately muffled to prevent loud and/or explosive noises therefrom;
11. Noise created as a result of or relating to an emergency;
12. Noise generated by construction activity shall be exempted between the hours of 7:00 a.m. to one hour after sundown, Monday through Saturday;
13. Noise created by blasting other than conducted in connection with construction activities shall be exempted, provided that blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public and provided that a permit for such blasting has been obtained from local authorities;
14. Noise created by on site recreational or sporting activity which is sanctioned by the state or local government provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom;
15. Patriotic or public celebrations not extending longer than one calendar day;
16. Noise created by aircraft;
17. Noise created by products undergoing tests, where one of the primary purposes of the test is evaluation of the product noise characteristics and where practical noise control measures have been taken; and
18. Noise generated by transmission, facilities, distribution facilities and substations of public utilities which provide electrical power, telephone, cable television or other similar services located on

property which is not owned by the public utility and which may or may not be within utility easements.

#### C. General Compliance

Nothing in any portion of this Section shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with this Chapter is not a bar to a claim of nuisance by any person. A violation of any portion of this Chapter shall not be deemed to create a nuisance per se.

#### D. Noise District Classification

Noise district classification shall be based on the actual designation of any parcel or tract as detailed by the zoning ordinances of the City of Middletown as amended from time to time. The current designation shall be the determining factor and any change in zoning also represents a change in noise district.

#### E. Districts Enumerated

1. Residential Noise District - Lands defined as residential districts or other districts by the zoning ordinances of the City of Middletown shall be designated as "Residential Noise Districts" and shall be subject to the noise standards prescribed by this chapter.

2. Business Noise District - Lands defined as business districts by the zoning ordinances of the City of Middletown shall be designated as "Business Noise Districts" and shall be subject to the noise standards prescribed by this chapter.

3. Industrial Noise District - Lands defined as industrial districts by the zoning ordinances of the City of Middletown shall be designated as "Industrial Noise Districts" and shall be subject to the noise standards prescribed by this chapter.

#### F. Noise District Boundaries

1. The boundaries of the noise districts described in the preceding section shall be defined as provided for in the zoning ordinances of the City of Middletown.

2. Within the noise district, the noise emitter's zone includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by the public land records. The emitter's noise zone also includes contiguous street and highway rights of way, railroad rights of way and waters.

#### G. General Prohibition

No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her noise district or zone as to violate any provisions of this chapter.

#### H. Specific District Standards

1. For purposes of this section, "day" shall be defined as 7:00 a.m. to sundown.

2. No person in an industrial noise district shall emit noise exceeding the level stated herein and applicable to adjacent noise districts and zones:

a) Industrial emitter to: Industrial receptor (dBA)70, Business receptor (dBA)66, Residential receptor-day(dBA)61, Residential receptor-night(dBA)51.

b) Levels emitted in excess of the value listed above shall be considered excessive and unnecessary noise.

3. No person in a business noise district shall emit noise exceeding the level stated herein and applicable to adjacent noise districts and zones:

a) Business emitter to: Industrial receptor (dBA)62, Business receptor (dBA)62, Residential receptor - day (dBA)55, Residential receptor - night (dBA)45.

b) Levels emitted in excess of the values listed above shall be considered excessive and unnecessary noise.

4. No person in a residential noise district shall emit noise exceeding the level stated herein and applicable to adjacent noise districts and zones:

a) Residential emitter to: Industrial receptor (dBA)62, Business receptor (dBA)55, Residential receptor - day (dBA)55, Residential receptor - night (dBA)45.

b) Levels emitted in excess of the values listed above shall be considered excessive and unnecessary noise.

#### I. Motor Vehicle Noise

1. All motor vehicles operated within the limits of the City of Middletown shall be subject to the noise standards and the decibel levels as found in Title XIV, Section 14-80a of the Connecticut General Statutes, as amended from time to time.

2. No power equipment and no sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels specified in this Chapter.

#### J. Measurements

1. Measurements taken to determine compliance with this Chapter shall be taken at any elevation and at any point beyond the boundary of the emitter, noise zone or district and within the receptors noise zone or district.

2. When taking measurements a wind screen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except when such background noise interferes with the primary noise being measured.

3. Continuous measurements shall be taken for determining compliance if it is alleged that the noise is a short term noise level excursion.

#### K. Enforcement Authority

The Chief of Police shall be responsible for enforcing the provisions of this chapter and carrying out the intent of this chapter.

#### L. Inspections

1. The Chief of Police, or his/her designee, is authorized and directed to make inspections, conduct investigations and monitor noise levels in the City of Middletown for the purpose of determining compliance with the provisions of this ordinance and carrying out the intent of this ordinance, as amended.

2. The Chief of Police, or his/her designee, is authorized to make inspections and investigations and conduct monitoring whenever necessary to determine the quantity and character of noise.

3. If any owner, occupant or other person in charge of a parcel of land fails or refuses to permit free access and entry to the premises under his/her control, or any part thereof, with respect to which an inspection or investigation authorized by this chapter is sought to be made, the Chief of Police, or his/her designee, may, upon showing that probable cause exists for the inspection or investigation and for the issuance of an order directing compliance with the inspection or investigation requirements of this section, petition and obtain the necessary order from a court of competent jurisdiction to conduct the inspection or investigation.

#### M. Notice of Violation

Whenever the Chief of Police, or his/her designee, determines that any noise source fails to meet the requirements set forth in this Chapter or in applicable rules and regulations issued

pursuant thereto, the Chief of Police, or his/her designee, in accordance with existing legislation, shall issue a notice of setting forth the alleged failures and advising the owner, occupant, operator or agent that such failures must be corrected. This notice shall

- 1) be in writing;
- 2) describe the noise source where the violations are alleged to exist or to have been committed;
- 3) set forth the alleged violations of this chapter or applicable rules and regulations issued pursuant thereto;
- 4) specify a specific date for the correction of any violation alleged;
- 5) be served upon the owner, occupant, operator or agent of the noise source personally or by registered mail, return receipt requested, addressed to the owner, occupant, operator or agent.

#### N. Violations and Penalties

1. Any owner, occupant, operator or agent of a noise source who has received a notice to correct a violation of this chapter and who has failed to correct such violation by the date specified in such notice shall be punished by a fine of not less than \$20.00 nor more than \$99.00. Each day and each night that such violation shall continue shall constitute a separate offense.
2. No penalty shall be due while a reconsideration, hearing or appeal is pending in the matter.
3. The imposition of any fine hereunder shall not prevent the enforced abatement of any unlawful condition by the town.

#### O. Appeals

Any person aggrieved by a notice of the Chief of Police, or his/her designee, issued in the connection with any alleged violation of this chapter or of any applicable rule or regulation issued pursuant thereto or by any order requiring repair may apply to the Chief of Police for an administrative hearing for reconsideration of such notice or order, provided that such application is made within five (5) days after the date of notice or order was issued. If the Chief of Police holds an administrative hearing for reconsideration of a notice or order, the Chief of Police shall prepare a summary of the hearing and shall state the decision reached. Such summary and statement shall become part of the public record.