

# **COMMON COUNCIL ORDINANCE COMMITTEE**

## **REGULAR MEETING**

**August 20, 2019**

**7:00 p.m. – Room 231**

Norwalk City Hall-125 East Avenue, Norwalk, CT

### **AGENDA**

**1. ROLL CALL:**

**2. PUBLIC HEARING (possible action on):**

- Discuss and vote on ordinance concerning Polystyrene (Styrofoam)

**3. PUBLIC HEARING DISCUSSION:**

**4. PUBLIC COMMENT:**

**5. ACCEPTANCE OF MINUTES:**

- July 15, 2019 - ordinance committee meeting

**6. OLD BUSINESS:**

- Discuss and vote on Code of Ethics Section 32-3 – Definitions
- Discuss and vote on Code of Ethics Section 32-11 – Subsequent employment
- Update on Chapter 37 Environmental Hazards – compliance with ordinance and food order apps
- Discuss and vote on Use of Single-Use Plastic Straws and Stirrers by Food or Beverage Establishments
- Update on DEEP's response to Chapter 68 - Noise Ordinance. Discuss and vote on Chapter 68 – Noise Ordinance and Mr. Zwierling's response to DEEP.

**7. NEW BUSINESS:**

- Discuss and vote on Code of Ethics Section 32-9 – Specific violations
- Discuss and vote on Code of Ethics Section 32-13 – Effect of violation
- Discuss and vote on Code of Ethics Section 32-14 – Time limits on complaints
- Discuss and vote on Code of Ethics Section 32-15 – Proposed revisions
- Discuss and vote on Chapter 103, Article III, Section 103-6 (Tax Relief for the Elderly and Disabled Homeowners – Eligibility)
- Discuss and vote on Chapter 103, Article III, Section 103-7 (Tax Relief for the Elderly and Disabled Homeowners – Filing of application)

- Discuss and vote on Chapter 103, Article III, Section 103-12 (Tax Relief for the Elderly and Disabled Homeowners – Amount of benefits; annual adjustment)

**8. DISCUSSION ITEM:**

**9. ADJOURNMENT:**

# **Polystyrene (Styrofoam)**

## USE AND SALE OF POLYSTYRENE PRODUCTS

### § \_\_\_\_-1. – Purpose.

The purpose of this article is to preserve and protect the environment in the City of Norwalk by prohibiting the sale, provision, or distribution of Polystyrene products by Food Packagers and Retail Establishments.

### § \_\_\_\_-2. – Definitions.

As used in this article, the following terms shall have the meanings indicated:

#### **FOOD PACKAGER**

Any person, corporation, partnership, business, or other organization or group, however organized, ~~located in the City of Norwalk~~ that places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.

#### **PREPARED FOOD**

Means any food or beverage served or sold at a Retail Establishment, either for consumption on the premises or for takeout, that has been prepared at the Retail Establishment's location or elsewhere by cooking, chopping, slicing, mixing, brewing, freezing, squeezing, or other food preparation technique. The term includes leftovers from partially consumed Prepared Food.

#### **POLYSTYRENE**

Means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

#### **POLYSTYRENE FOOD SERVICE PRODUCT**

Means any product made in whole or in part of Polystyrene and used in the restaurant or food service industry for serving or transporting Prepared Food. The term includes, by way of example and not limitation, cups, bowls, lids, sleeves, utensils, plates, trays, hinged or lidded containers (clamshells), coolers, and egg cartons.

#### **POLYSTYRENE LOOSE FILL PACKAGING**

Commonly known as packing peanuts, means a void-filling packaging product made of Polystyrene that is used as packaging fill.

**RETAIL ESTABLISHMENT**

Any person, corporation, partnership, business, or other organization or group, however organized, that transfers merchandise, goods, or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer in exchange for payment. The term includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, clothing store, hardware store, hospital, pharmacy, liquor store, restaurant, delicatessen, convenience store, caterer, food truck, sidewalk vendor, farmers' market, flea market, and any other retail store or vendor. The term shall not include the sale of goods at yard sales, tag sales, or other sales by residents at their home.

§ \_\_\_\_-3. – **Prohibitions**

- | A. No Retail Establishment located in the City of Norwalk shall serve, sell, distribute, or provide Prepared Food in or on a Polystyrene Food Service Product.
- | B. No Food Packager located in the City of Norwalk shall package meat, eggs, bakery products, or other food in or on a Polystyrene Food Service Product.
- | C. No Retail Establishment located in the City of Norwalk shall sell, offer for sale, distribute, or provide Polystyrene Food Service Products or Polystyrene Loose Fill Packaging.
- D. The City of Norwalk shall not use or provide Polystyrene Food Service Products or Polystyrene Loose Fill Packaging at any City facility or City-sponsored event.
- E. No City of Norwalk department or facility shall purchase or acquire Polystyrene Food Service Products or Polystyrene Loose Fill Packaging.
- F. All parties who contract with the City of Norwalk shall be prohibited from using Polystyrene Food Service Products or Polystyrene Loose Fill Packaging in City facilities or on City-funded projects within the City.

§ \_\_\_\_-4. – **Exceptions.**

- A. The prohibition set forth in Section 3 of this article shall not apply to:
  - 1. Polystyrene Food Service Products used for prepackaged food that have been filled and sealed prior to receipt by the Retail Establishment;
  - 2. Polystyrene Food Service Products used to contain or store raw meat or seafood sold from a butcher case or similar retail appliance; or
  - 3. Polystyrene coolers and ice chests, provided that such Polystyrene is fully encased in another material.

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**DRAFT – 7/16/19**

- B. The prohibitions set forth in Section 3 of this article shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.

§ \_\_\_\_-5. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the Code Enforcement Office or its designee.
- B. Upon determination that a violation has occurred, the Food Packager or Retail Establishment, as the case may be, shall be liable for the following:
1. Upon the initial violation, written warning notice that a violation has occurred shall be issued. No penalty shall be imposed for the initial violation;
  2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and
  3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).
- C. No more than one penalty shall be imposed upon a single Food Packager or Retail Establishment in one 24 hour period.

§ \_\_\_\_-6. – **Severability.**

If any section, clause, sentence or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such adjudication shall not affect the validity or enforceability of any other provision hereof, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ \_\_\_\_-7. – **Effective date.**

This article shall become effective [six] months following its adoption by the Common Council.

**Draft Meeting Minutes from  
the 7/15/2019 Ordinance  
Committee Meeting**

**CITY OF NORWALK  
ORDINANCE COMMITTEE  
REGULAR MEETING  
JULY 15, 2019**

**ATTENDANCE:** Eloisa Melendez, Chair; Michael Corsello, Thomas Livingston, Colin Hosten, Doug Hempstead, Chris Yerinides, Beth Siegelbaum

**STAFF:** Attorney Brian Candela, Corporation Counsel, Attorney Kara Murphy, Board of Ethics, Anna Keegan, Acting Director of Human Resources

**OTHERS:** Diane Lauricella, Beatrix Winter, Samuel Pride, Nathalia Gonzalez

**1. ROLL CALL**

Ms. Melendez called the meeting to order at 7:02 p.m. A quorum was present.

**2. PUBLIC HEARING (possible action on)**

Discuss and vote Code of Ethics Section 32-5 – Prohibited representation  
Discuss and vote Code of Ethics Section 32-6 – Prohibited use of City Property and facilities  
Discuss and vote Code of Ethics Section 32-7 – Prohibited use of influence and information  
Discuss and vote Code of Ethics Section 32-10 – Negotiation of future employment

Diane Lauricella was the first speaker and thanked the Committee for working on the code. She spoke about the need for parallel education to better inform the public and urged a public outreach program and added many people do not even know the city has an Ethics Commission. She said it would do a lot for reducing the unethical behavior. Ms. Lauricella said she thinks a section could be inserted in the code.

Ms. Melendez closed the Public Hearing at 7:05 p.m.

**3. PUBLIC HEARING DISCUSSION**

There was no discussion.

**\*\* MR. LIVINGSTON MOVED THE PROPOSED AMENDMENTS TO THE CODE OF ETHICS.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**4. PUBLIC COMMENT**

Beatrix Winter, 475 Newtown Avenue, Executive Director of the Norwalk Senior Center was the first speaker. Ms. Winter said she supports the ban on plastic straws with one important exception for people with disabilities. She said her Mother-in-Law has Parkinson's Disease and needs a plastic straw to eat and drink. Ms. Winter pointed out you would not take away a cane or someone's wheelchair.

Ms. Lauricella said she agreed with Ms. Winter and with the ban on plastic straws and Polystyrene. She asked again for public outreach so everybody is aware of the ban. She said understanding makes compliance easier.

Ms. Lauricella also talked about solar energy and the tax exemption. She said it was hard to understand if the exemption was on the equipment or the entire building. She was interested in the years and wanted an explanation on why this was going back to 1976. Ms. Lauricella said she does not believe the city should go that far back in light of the fact that taxpayers need relief.

Samuel Pride, 1 Armstrong Court, a selectman and member of the ADA Committee. He said people he encounters in everyday life are rude and insensitive about his visual impairment. Mr. Pride explained that a plastic draw ban would put a burden on the people with disabilities who need the straws.

Nathalia Gonzalez, co-owner of Antojos Restaurant, was the next speaker. She said when people order from her restaurant on Door Dash and Uber Eats there is no way on the App to charge the customer for the use of paper bags that the food is delivered in. Ms. Gonzalez said the drivers are independent contractors and the delivery services cannot force the drivers to provide paper bags for delivery.

Ms. Melendez closed public comment at 7:16 p.m.

## **5. ACCEPTANCE OF MINUTES**

June 18, 2019 – ordinance committee meeting

**\*\* MR. LIVINGSTON MOVED TO ACCEPT THE MINUTES.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

## **6. OLD MINUTES**

Discuss and vote on Code of Ethics Section 32-1 – Title; administration

Discuss and vote on Code of Ethics Section 32-2 – Declaration of policy

Discuss and vote on Code of Ethics Section 32-3 – Definitions

Discuss and vote on Code of Ethics Section 32-11 – Subsequent employment

Discuss and vote on Use of Single-Use Plastic Straws and Stirrers by Food and Beverage Establishments

Discuss and vote on ordinance concerning Polystyrene (Styrofoam)

The Committee debated Censure to Removal. They agreed this section needed to be cleaned up.

The Committee debated Section 31-11B regarding Subsequent Employment. The section says no agency shall employ any individual who has served as an Officer of the Agency during the preceding 18 months. The Committee said they may be willing to change that to 12 months.

The Committee discussed that there is no definition for Financial Benefit in the Code of Ethics. They looked at what other towns had done regarding this issue. Ms. Murphy said if they can cannibalize Bristol, Bethel and Greenwich they can come up a definition they feel more comfortable with. Mr. Livingston said they should not do it at this time. Mr. Candela said they will go back to the Board of Ethics and discuss the language of 32-3 and 32-11.

**\*\* MR. HEMPSTEAD MOVED TO SEND 31-1 AND 31-2 TO THE COMMON COUNCIL.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

Ms. Murphy wanted to point out there said will be an educational component. She said it is buried in the code vaguely and is something the Board of Ethics will look at once everything is reworked.

The next issue was the draft regarding Use of Single-Use Plastic Straws and Stirrers by Food or Beverage Establishments. The section in question was Exceptions 4A-3. Mr. Livingston said he is convinced something needs to be done for people with disabilities. He said stick with the ban on plastic stirrers and provide a single use plastic straw as requested. Mr. Corsello asked if that is to get around employers having to educate their employees. Mr. Livingston said his concern was then you are forcing to have a person say they are disabled. Mr. Corsello countered that is against the law.

Ms. Melendez said a customer should be able to request a straw and no questions should be asked.

Mr. Corsello said if you say you are disabled no further inquiry should follow. Mr. Livingston said on a practical level it may not work. Mr. Hosten said if you need to request an accommodation then you do that.

Anna Keegan, Acting Director of Human Relations Department and Fair Rent Department and Director of Americans with Disabilities Act Coordinator, spoke next. She said metal straws are not an option for people with disabilities because they can hurt their mouths or their teeth.

While paper straws can dissolve quickly and don't stand up to being chewed. Keegan said right now plastic straws are the best alternative for people with disabilities.

She said regarding reasonable accommodation the law does not require establishments to keep plastic straws in stock and people with disabilities would be required to call ahead to request plastic straws.

She said once the person has to ask for a reasonable accommodation it's an effort and maybe you do not want someone to know you have a disability. Ms. Keegan said another option to address concerns is to for the customer to say they need a straw with no follow up questions.

Mr. Corsello asked if we can compel businesses to carry plastic straws. Mr. Candela said there is no case law pertaining to plastic straws.

Mr. Hempstead said the Committee should move forward with banning stirrers. He said rather than ban why don't we require all stores offer paper or plastic. He said people who care about the environment will switch over to paper straws.

Mr. Yerinides said he favored plastic straws on request. He wanted to know what is the time period for a reasonable request for someone to request a plastic straw in advance. Ms. Keegan said that is a murky issue.

Mr. Livingston said he and Mr. Candela will work on the language of Purpose Section 1 and a new section would be added.

The next topic was the ban on Styrofoam.

Mr. Hempstead asked about Meals on Wheels. Mr. Livingston said the goal is to get rid of single use Styrofoam.

**\*\* MR. LIVINGSTON MOVED TO SEND THE STYROFOAM ORDINANCE TO  
PUBLIC HEARING AT THE NEXT SCHEDULED MEETING OF THE  
COMMITTEE**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

Ms. Melendez said they will reach out to Meals on Wheels to try and get a representative at the public hearing.

## **7. NEW BUSINESS**

Discuss and vote Chapter 37 Environment Hazards – compliance with ordinance and food order apps.

Discuss and vote on Tax Exemption for Solar Energy, Chapter 103, Article II, Section 103-3 and 103-4

Ms. Melendez thanked Ms. Gonzalez for speaking at the meeting and bringing this issue regarding food order apps to the Committee's attention. Ms. Gonzalez said for people using apps (Grub Hub, Doordash or Uber Eats) there is no way to charge the customer for paper bags which makes her in violation of the law.

Mr. Hempstead said the solution is to find a way to add a 10 cent charge to the customer for the paper bag.

The next topic was the tax exemption for solar energy. The language was on the books from 1976 until 1991 that allowed any solar asset addition to the property not to be taxed for 15 years.

Mr. Hempstead said it's a good idea to bring this back to incentivize people to put solar on homes and also on commercial buildings. He stated this would only apply to the asset not to the entire structure.

Mr. Candela said he would work on bringing the language of the code up to date.

#### **8. DISCUSSION ITEM**

There was no discussion item.

#### **9. ADJOURNMENT**

**\*\* MR. LIVINGSTON MOVED TO ADJOURN.**

**\*\* THE MOTION TO ADJOURN PASSED UNANIMOUSLY.**

The meeting adjourned at 8:57 p.m.

Respectfully submitted,

Greg Venuto  
Telesco Secretarial Services

# **Code of Ethics**

## **Section 32-3**

## **Section 32-11**

## **Chapter 32. Code of Ethics**

[HISTORY: Adopted by the City of Norwalk Common Council 6-26-2007.[1] Amendments noted where applicable.]

### **GENERAL REFERENCES**

Administration — See Ch. 9.

[1] Editor's Note: This ordinance also superseded former Ch. 32, Code of Ethics, adopted 9-12-1967, effective 9-30-1967.

### **§ 32-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **FINANCIAL BENEFIT**

Shall mean the receipt of an improper financial-benefitcompensation, which may include including-but is not limited to, financial compensation, tangible and intangible Employee benefits, or the award of a municipal contract or grant to a third party or independent contractor, who is an Immediate Family member benefits and/or compensation to an Employee's or Officer's Immediate Family.

Pursuant to the request of the ordinance committee at the July 2019 meeting, the Ethics Committee made the following revisions to § 32-3 (Financial Benefit) for your review and comment. Revisions are in bold font and also highlighted in yellow.

**Financial benefit means any benefit that would substantially conflict with the proper discharge of the Officer or Employee's duties or employment in the public interest and of the Officer or Employee's responsibilities as prescribed by the laws of this state and city, if the Officer or Employee has reason to believe or expect that the Officer or Employee, the Officer or Employee's Immediate Family, or a business with which the Officer or Employee is associated, will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of the Officer or Employee's municipal activity. Any such Officer or Employee does not have a benefit that is in substantial conflict with the proper discharge of the Officer or Employee's duties in the public interest and of the Officer or Employee's responsibilities as prescribed by the laws of this state and city, if any benefit or detriment accrues to the Officer or Employee, the Officer or Employee's Immediate Family, or a business with which the Officer or Employee or his or her Immediate Family is associated as a member of a profession, occupation or group to no greater extent than to any other member of such profession, occupation or group.**

### **§ 32-11. Subsequent employment.**

Pursuant to the request of the ordinance committee at the July 2019 meeting, the Ethics Committee made the following revisions to § 32-11 for your review and comment. Revisions are in bold font and also highlighted in yellow.

- A. An ~~i~~Individual who has served as an ~~officer~~Officer or ~~employee~~Employee shall not within one year after termination of his or her service, assist any ~~p~~Person, other than the City, for monetary or other valuable compensation, before the ~~a~~Agency for which the ~~officer~~Officer or ~~employee~~Employee served or was employed, in any matter in which said ~~officer~~Officer or ~~employee~~Employee participated personally and substantially during his or her service with the City. **If an Officer or Employee appears before the Agency in which he or she was a member or employed during the first year after termination of his or her service, the Board of Ethics may make a decision that the appearance is in violation of the Code. ;** ~~or appear before the Agency in which he or she was a member or employed. For example, an Officer or Employee of the Zoning Commission could not appear before the Zoning Commission within one year after termination, but could appear before any other City agency immediately after terminating his or her service from the Zoning Commission.~~
- B. No ~~a~~Agency shall employ any ~~i~~Individual who has served as an ~~officer~~Officer of the ~~a~~Agency during the preceding **12**~~48~~-months or any ~~immediate family~~Immediate Family member of an ~~i~~Individual who has served as an ~~officer~~Officer of the ~~a~~Agency during the preceding **12**~~48~~ months. No ~~officer~~Officer of an ~~a~~Agency or any ~~immediate family~~Immediate Family member of an ~~officer~~Officer of an ~~a~~Agency shall apply for or accept employment by that ~~a~~Agency during the time that said ~~officer~~Officer is serving for the ~~a~~Agency and for a period of **12**~~48~~-months after said ~~officer~~Officer ceases to serve in the ~~a~~Agency.

# **Plastic Bag Ban Ordinance**

## **Chapter 37**

## MEMORANDUM TO FILE

Date: August 16, 2019  
From: Brian Candela  
**RE: Plastic Bag Ordinance**

Please allow this email serve as an update on my investigation into home delivery of food/food order apps and how other municipalities are dealing with it. Please see the attachment above, entitled 2019 Bag Ban Update Memo 6 20 2019 Final. Specifically Page 82 of this document (sections C and E) concerning plastic bags and home delivery.

- Stamford advised they have not dealt with this issue.
- Chicago has advised they have not dealt with this issue.
- Coral Gables, Florida has not dealt with this issue.
- Honolulu made an exception for bags used to transport food. Plastic checkout bag does not include “bags used to protect or transport prepared foods, beverages, or bakery goods.”
- As noted below, Seattle’s future bag ban will apply to take out food. "Carryout bag" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases.



## A BILL FOR AN ORDINANCE

""Compostable plastic bag" means a checkout bag that is provided to a customer for the purpose of transporting groceries or other retail goods, that meets current ASTM D6400 Standard Specifications for compostability and that is labeled:

- (1) With the Biodegradable Product Institute ("BPI") logo as meeting the ASTM standard for compostability; and
- (2) With "Compostable" on both sides of the bag in either green color lettering that is at least one inch in height, or as otherwise specified; or within a green color band that is at least one inch in height in order to be readily and easily identifiable."

""Plastic checkout bag[:]"":

- (1) Means a [bag that is made from non-biodegradable plastic, and is] carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and is made from non-compostable plastic and not specifically designed and manufactured for multiple re-use;
- (2) This term does not include:
  - (A) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
  - (B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;
  -  (C) Bags used to protect or transport prepared foods, beverages, or bakery goods;
  - (D) Bags provided by pharmacists to contain prescription medications;
  - (E) Newspaper bags for home newspaper delivery;
  - (F) Door-hanger bags;
  - (G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;

# MEMORANDUM

**DATE:** July 1, 2019  
**TO:** Seattle City Council  
**FROM:** Mami Hara, General Manager & CEO – Seattle Public Utilities (SPU)  
**RE:** 2019 Report on Seattle Bag Ban Compliance

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## **BACKGROUND**

This memorandum was prepared in compliance with the annual bag ban reporting requirement established in Ordinance 125165. It builds on the 2018 Report on Seattle Bag Ban Compliance submitted to Council on July 1, 2018 (included as Attachment 1) and is focused on specific notable developments and next steps. The 2018 Report provides detailed background that is not repeated within this Report.

The Seattle City Council in 2011 passed Ordinance 123775, which banned retailers from providing single-use plastic and bio-degradable carry-out bags. In 2016, the Council approved Ordinance 125165, making several revisions to Seattle's bag regulations, including requiring compostable bags be properly labeled and tinted either green or brown, disallowing the distribution of non-compostable plastic bags that are tinted green or brown, and creating an annual bag ban reporting requirement to Council. These ordinances together make up SMC 21.36.100.

Seattle's responsibility for addressing single-use plastic carry-out bags is further emphasized by Seattle City Council in Resolution 30990, which: (1) reaffirmed the City's 60% recycling goal and set a longer-term goal of 70% recycling along with targets for waste reduction, and (2) called for studies on how to reduce Seattleites' use of hard-to-recycle materials, many of them plastics, and specifically required SPU to propose strategies (including bans) to discourage the use of disposable plastic carry-out bags.

Seattle's bag ban ordinances were implemented primarily to address concerns that the production, use, and disposal of plastic carry-out bags have significant adverse impacts on the environment, health, safety, and welfare of Seattle residents. Key considerations include:

- Conserving energy and natural resources
- Reducing waste and controlling litter throughout Seattle
- Reducing marine litter and pollution
- Reducing solid waste disposal costs

As part of the annual reporting requirements, SPU must evaluate at a minimum:

1. The waste and litter reduction benefits of the City's bag ban program,
2. Strategies to increase bag ban compliance in all stores,
3. The effectiveness of this ordinance in reducing the number of non-compostable bags contaminating the waste stream, and
4. Strategies to address the impacts of loose plastic bags on curbside recycling

Findings and recommendations are due to the City Council no later than July 1 each year.

This memorandum serves as SPU's 2019 fulfillment of this reporting requirement to Council.

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**Appendix A: Seattle Municipal Code 21.36.100 - Single-use Plastic and Recyclable Paper Carryout Bags**

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- A. No retail establishment in the City shall provide a single-use plastic carryout bag to any customer.
- B. No retail establishment in the City shall provide a paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recyclable paper bag, and retail establishments shall collect a pass-through charge of not less than five cents for each recyclable paper carryout bag provided to customers. It shall be a violation of this Section 21.36.100 for any retail establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge; provided that retail establishments may not collect a pass-through charge from anyone with a voucher or electronic benefits card issued under the Women, Infants and Children (WIC) or Temporary Assistance to Needy Families (TANF) support programs, or the federal Supplemental Nutrition Assistance Program (SNAP, also known as Basic Food), or the Washington State Food Assistance Program (FAP).
- C. Effective July 1, 2017, no retail establishment in the City shall use or provide polyethylene or other non-compostable plastic film bags tinted green or brown for customers to bag products in stores, as carryout bags, or for home delivery.
- D. Any film bags meeting the definition of compostable that retail establishments provide to customers for food or other products, such as vegetables bagged in stores prior to checkout, must be tinted green or brown and shall be clearly labeled "COMPOSTABLE," including language following the Federal Trade Commission's "Green Guides."
- E. No film bag that retail establishments provide to customers to bag products in stores, as carryout bags, or for home delivery may be labeled with the term "biodegradable," "degradable," "decomposable," or any similar terms, or in any way imply that the product will break down, fragment, biodegrade, or decompose in a landfill or other environment.
- F. All retail establishments shall indicate on the customer transaction receipt the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.
- G. For purposes of this Section 21.36.100, the following definitions apply.
  - 1. "Carryout bag" means a bag that is provided by a retail establishment at the check stand, cash register, point of sale, or other point of departure to a customer for the purpose of transporting food or merchandise out of the establishment. Carryout bags do not include:
    - a. bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items, such as nails and bolts, or to contain or wrap frozen foods, meat or fish, whether prepackaged or not, or to contain or wrap flowers or potted plants, or other items where dampness may be a problem, or to contain unwrapped prepared foods or bakery goods, or to contain prescription drugs, or to safeguard public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the retail establishment; or
    - b. newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

**Use of Single-Use Plastic Straws  
and Stirrers by Food or Beverage  
Establishments Ordinance**

**USE OF SINGLE-USE PLASTIC STRAWS AND STIRRERS BY FOOD OR  
BEVERAGE ESTABLISHMENTS**

**§\_\_\_\_\_-1. – Purpose.**

The purpose of this article is to preserve and protect the environment in the City of Norwalk by prohibiting the sale, provision, or distribution of ~~Single-Use Plastic Straws and~~ Single-Use Plastic Stirrers and reducing the use of Single-Use Plastic Straws by Food or Beverage Establishments.

**§\_\_\_\_\_-2. – Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**FOOD OR BEVERAGE ESTABLISHMENT**

A ~~place~~ establishment where food or beverages of any kind are ~~provided~~ sold directly to a consumer, ~~whether such food is provided free of charge or sold and whether for consumption occurs on or off the premises.~~ The term includes, by way of example and not limitation, any restaurant, bar, liquor store, delicatessen, coffee shop, movie theater, convenience store, food truck, take-out restaurant, delivery service, or caterer. The term shall not include hospitals, nursing homes, long-term care facilities, or other medical or dental facilities.

**SINGLE-USE**

A product that is intended to be only used one time in its same form.

**SINGLE-USE PLASTIC STRAW**

A Single-Use tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. “Single-Use Plastic Straw” does not include a straw made from non-plastic materials, including, but not limited to, paper, metal, pasta, sugar cane, wood, or bamboo.

**SINGLE-USE PLASTIC STIRRER**

A Single-Use device, implement, or utensil made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, designed solely for the purpose of mixing liquids intended for internal human consumption. “Single-Use Plastic Stirrer” does not include a stirrer made from non-plastic materials, including, but not limited to, paper, metal, pasta, sugar cane, wood, or bamboo.

§ \_\_\_\_-3. – **Prohibition on Straws and Stirrers.**

- A. No Food or Beverage Establishment in the City of Norwalk shall sell, provide, or distribute a Single-Use Plastic Stirrer ~~in the City of Norwalk.~~
- B. No Food or Beverage Establishment in the City of Norwalk shall sell, provide, or distribute a Single-Use Plastic Straw unless requested by the consumer ~~customer~~ or selected by the consumer from a self-service dispenser.

§ \_\_\_\_-4. – ~~Exceptions~~ **Accommodation for Persons with Disabilities or Medical Conditions.**

Notwithstanding any other provision of this Article, and in recognition that a straw is an adaptive utensil that may provide basic accommodation for persons with disabilities or medical conditions to eat or drink, Food or Beverage Establishments in the City of Norwalk must provide a Single-Use Plastic Straw upon request to any consumer who requires the use of same due to a disability or medical condition.

§ \_\_\_\_-5. – **Exceptions.**

- A. The prohibitions set forth in Section 3 of this article shall not apply to:
  - ~~1. — The sale, provision, or distribution of Single-Use Plastic Straws to persons who may require use of same due to a disability or medical condition; and~~
  - 21. The sale, provision, or distribution of beverages packaged and sealed prior to receipt by the Food or Beverage Establishment; and-
  - 23. The sale of Single-Use Plastic Straws or Single-Use Plastic Stirrers in multi-straw or multi-stirrer packages, as the case may be, that are sealed prior to receipt by the Food or Beverage Establishment.
- B. The prohibition set forth in Section 3 of this article shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.

§ \_\_\_\_-65. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the Code Enforcement Office or its designee.
- B. Upon determination that a violation has occurred, the Food or Beverage Establishment shall be liable for the following:
  - 1. Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Food or Beverage Establishment. No penalty shall be imposed for the initial violation;
  - 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and

**ORDINANCE COMMITTEE  
DRAFT –8/20/19**

3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).
- C. No more than one penalty shall be imposed upon a Food or Beverage Establishment in one 24 hour period.

| § \_\_\_\_-76. – **Severability.**

If any section, clause, sentence or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such adjudication shall not affect the validity or enforceability of any other provision hereof, and the applicability thereof to other persons or circumstances shall not be affected thereby.

| § \_\_\_\_-87. – **Effective date.**

This article shall become effective three months following its adoption by the Common Council.

**Noise**  
**Norwalk City Code**  
**Chapter 68**

## Norwalk Proposed Ordinance Initial Review

**Technical Noise Changes:** These are changes that alter definitions that do not appear in the SNP but exist in ANSI documents, are acoustic terms or methods of measurement. The determination of their accuracy would require a person with expertise in noise, and noise measurement, which this office does not have.

| Ord Section  | Change                                                                     | Review Determination                                                                                                                                                                                                   |
|--------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-3 - Defs. | "Corrected Source Sound Level",<br>"Extraneous Sound", "Total Sound Level" | These changes in definition have to do with specific sound terms that are not defined in the SNP, but are referenced in ANSI sound measurement requirements.                                                           |
| 68-3 - Defs. | "Continuous Sound"                                                         | While the definition of "continuous noise" is consistent with "continuous sound" which appears in the SNP, the question of whether multiple instances of impulse noise constitute continuous sound is a technical one. |
| 68-4(2)      | Sound measurement out of doors with wind                                   | Process for conducting measurements in high wind is not contained in SNP. Proper procedure would be contained within ANSI.                                                                                             |
| 68-4(D)      | Corrected Source Sound Levels                                              | Process for corrected noise levels not contained in SNP. Proper procedure would be contained within ANSI.                                                                                                              |
|              |                                                                            |                                                                                                                                                                                                                        |

**Out of Scope of Review (Zoning, Mobile Source):** These are changes that are to zoning or mobile source definitions, terms and requirements, and as such are outside the scope of the Department's authority on this issue.

| Ord Section                   | Description                                                                 | Issue                                                                                                                                                                                    |
|-------------------------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-3 - Defs.                  | "Multi-Dwelling Unit Building", "Multi-use Property", "Property Line"       | Zoning definitions. Not within scope of SNP. "Multiple-Use Property" is consistent with 69-2.2 "Multiple Uses" however 69-2.2 is a measurement requirement, not a zoning classification. |
| 68-5(3)(A)(1)                 | Commercial requirements regarding sound devices on the outside of buildings | This is a zoning issue. The SNP does not prescribe requirements regarding the location of sound devices.                                                                                 |
| 68-5(B)(2)(12),<br>68-7, 68-8 | Regarding Mobile Sources                                                    | Mobile sources are outside the scope of DEEP authority.                                                                                                                                  |

**Non-Conforming Changes:** These are changes which do not conform to the SNP.

| Ord Section | Description | Issues |
|-------------|-------------|--------|
|-------------|-------------|--------|

|                          |                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-4(D)(4)               | Describes measurement requirement as taking the measurement "at any location or elevation on their property at which they (affected person) may be exposed to the Noise." | This does not conform to the SNP for two reasons. 1) It is a subjective determination of the location in which to take the noise measurement. 2) It could result in taking the measurement within the receptor property at a distance that does not conform to 22a-69-4(g), which requires a measurement "one foot beyond the boundary of the emitter zone within the receptor's noise zone."                                                     |
| 68-4(D)(6)               | "Locations of outdoor measurements, at the discretion of the investigator, must represent a location on that property which would see regular use by the complainant"     | 1) Subjective. This wording specifically allows subjectivity by the investigator by allowing measurements to be taken at a location at the investigators discretion.<br>2) Does not comply to 22a-69-4(g)                                                                                                                                                                                                                                         |
| 68-4(D)(7)               | Measurements indoors should be taken "at least three feet from any wall, floor or ceiling"                                                                                | Does not comply to 22a-69-4(g).                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 68-4(D)(8)               | Determining Sound in High Background Noise Levels                                                                                                                         | This section disregards the SNP requirements in 22a-69-3.6 regarding taking measurements in locations with high background noise.                                                                                                                                                                                                                                                                                                                 |
| 68-5 Table 2             | Maximum Sound Levels                                                                                                                                                      | New Table does not include emitter zones which can affect the allowable decibel levels. While stricter standards are allowable per statute, weaker standards are not.<br>1) Table 2 contains a 65 dBA limit for receptor "Commercial" zone (analogous to Zone B in SNP) while upper limit should be 55 dBA.<br>2) Table 2 contains a 70 dBA limit for a receptor Industrial zone (analogous to Zone C in SNP) while upper limit should be 62 dBA. |
| 68-5(A)(3)(2)<br>Table 3 | Sound Limits - Commercial Establishment<br>Sound Production Devices                                                                                                       | 1) Measurement process of measuring at 10 feet from the facility or property line, whichever is further allows for measurements over 1 foot into receptor property. Does not comply with 22a-69-3.6<br>2) The WSDD day and night time limits of 75 and 65 are above the SNP allowable limits of 55 dBA limit to Class A receptors and 62 dBA limit to Class B receptors.                                                                          |

|         |                            |                                                                                                                                |
|---------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------|
|         |                            | 3) The Property Line daytime limit of 65 dBA is above acceptable limits to any receptor property.                              |
| 68-5(B) | Impulse Noise Requirements | Elimination of impulse noise requirements does not comply with SNP which contains requirements for impulse noise requirements. |

Legal Technical Changes: Technical Changes that may be required or should be clarified.

| Ord Section           | Description                                                                                      | Issues                                                                                                                                                                                                              |
|-----------------------|--------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-5(B)               | There are two subsection (B). By the eliminated impulse noise requirements and for "Exclusions." |                                                                                                                                                                                                                     |
| 65-5(B)<br>Exclusions | Eliminates construction from exclusions.                                                         | Is this language transferred elsewhere or is this a total elimination? Could cause later problems.                                                                                                                  |
| 68-8(C)(1)-(6)        | Factors to consider when taking noise measurements.                                              | Most of this section is noise measurement technique and it unclear how and when they should be applied. Are they applied during a noise measurement with a meter, a measurement using the plainly audible standard? |

## Candela, Brian

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**From:** Kritzler, Paul <Paul.Kritzler@ct.gov>  
**Sent:** Tuesday, August 06, 2019 7:59 AM  
**To:** Candela, Brian  
**Subject:** RE: Approval of Norwalk's Proposed Noise Ordinance Amendment - the entire code has been revised

**Follow Up Flag:** Copied to Worldox (Worldox\50470\0018\00057064.MSG)

Brian,

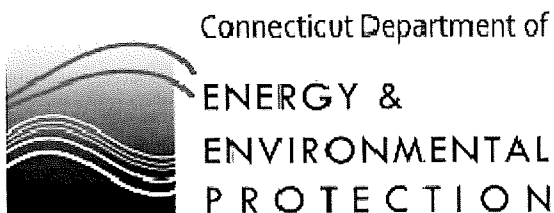
To answer your questions.

- 1) Your understanding would be correct. The first two sections are outside of our scope of review, but may bring up issues that you may want to address, but are not necessary for approval.
- 2) The state statutes require "conformity" with the state noise plan, as such there is leeway to provide explanation/ justification to address issues that have been brought up with the ordinance. We are above all, not trying to be a hindrance to municipalities adopting standards that work for them. Additionally, the state noise plan was adopted in 1978 and has not been updated since. The Department understands that a noise expert working today will have a better understanding of noise issues in the intervening 40 years, and that may lead to some of the discrepancies between the state noise plan and your ordinance.
- 3) Yes, it stands for state noise plan.

I hope these answers help and please let me know if I can answer any more questions for you.

### Paul Kritzler

Environmental Analyst  
Mobile Sources Group  
Division of Planning and Standards  
Air Bureau  
Connecticut Department of Energy and Environmental Protection  
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Follow us at: [FACEBOOK](#) [Drive Clean CT](#)



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*Conserving, improving and protecting our natural resources and environment;  
Ensuring a clean, affordable, reliable, and sustainable energy supply.*

Non-Conforming Changes: These are changes which do not conform to the SNP.

| Ord Section | Description                                                                                                                                                               | Issues                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-4(D)(4)  | Describes measurement requirement as taking the measurement "at any location or elevation on their property at which they (affected person) may be exposed to the Noise." | This does not conform to the SNP for two reasons. 1) It is a subjective determination of the location in which to take the noise measurement. 2) It could result in taking the measurement within the receptor property at a distance that does not conform to 22a-69-4(g), which requires a measurement "one foot beyond the boundary of the emitter zone within the receptor's noise zone." |

## RESPONSE

There are several issues with SNP guidance on measurement location:

- It assumes that the emitter and receptor are abutting. Often they do not, and thus there would be no location that is both "one foot beyond the boundary of the emitter zone and within the receptor's noise zone". In these circumstances, strict adherence to the SNP would result in no acceptable location at which to conduct measurements.
- Measurements conducted one foot onto a receptor's property may well not represent the basis for the complaint or the maximum sound levels on complainant's property. For example, the levels measured at a second story bedroom window (more than 1 foot inside the receptor's property line if the building setback is, for example, 8 feet) are often higher than they are at the property line if the source is at some elevation or if there is a property line acoustical barrier (fence, berm, structure, etc.).
- On commercial buildings, rooftop HVAC is often ten or more from the edge of the building. On the abutting property, from the vantage point of the ground one foot inside the property line, the HVAC is over the horizon. In this situation the sound levels measured at that location would be significantly reduced below those that might be measured on the complainant's deck 10 feet into their property at an elevation of five feet, which is where the noise disturbs them.
- One foot inside the property line may be behind a shed, in briars or wetlands. These are not locations at which a complainant would reasonably be exposed to the noise, unless they can justify a reason why they spend time at that location.
- In the downtown area, buildings often extend to the property line. One foot inside would be inside the dwelling, and the limits in the SNP are outdoor levels. Applying the outdoor limits indoors is problematic, as discussed elsewhere in this document. §68-4(D)(6) addresses this issue by allowing for measurements at the property line, which could be at the plane of the complainant's window. This is more stringent than the SNP requirement.
- Requiring measurements one foot within the receptor's property may result in measurements being conducted immediately adjacent to a busy road. The result is that the background (ambient) sound levels may be very high, possibly high enough to mask the noise from the emitter. Measurements conducted at the complainant's residence (more than 1 foot from the property line) may reveal a very different profile, as the distance from the road has been increased by 10-fold or more while the distance from the emitter may have only increased by 2-fold. In this scenario, the levels from

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                       |                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>the road may have dropped by 15 dBA while the levels from the emitter may have only dropped by 6 dBA. This flexibility in measurement location may not only result in enforceable measurements, they will actually represent the exposure of the complainant. They're not disturbed at their mailbox.</p> <ul style="list-style-type: none"> <li>• In more general terms, and from experience, determining compliance at a location at which a complainant may be exposed to the noise (as opposed to at their mailbox, or behind their shed) has value in a prosecution.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                       |                                                                                                                                                                                                                      |
| 68-4(D)(6)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | "Locations of outdoor measurements, at the discretion of the investigator, must represent a location on that property which would see regular use by the complainant" | <p>1) Subjective. This wording specifically allows subjectivity by the investigator by allowing measurements to be taken at a location at the investigators discretion.</p> <p>2) Does not comply to 22a-69-4(g)</p> |
| <p>The response to this is the same as above. Ideally, measurements should be taken at a location at which a complainant would reasonably be exposed to the noise.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                       |                                                                                                                                                                                                                      |
| 68-4(D)(7)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Measurements indoors should be taken "at least three feet from any wall, floor or ceiling"                                                                            | Does not comply to 22a-69-4(g).                                                                                                                                                                                      |
| <p>First of all, Title 22a does not apparently envision indoor measurements, as there is no reference anywhere to anything that would lead to that conclusion. If it had been meant to apply indoors, it would be logical that there would have been different permissible limits established for outdoors (one foot inside a receptor's property line) and inside their dwelling. Those are two very different receptor locations on the same property. Therefore, SNP guidance on measurement location was not meant for nor is it reasonably applicable to indoor measurements.</p> <p>By comparison, § 68-5 does in fact set permissible limits to be measured indoors, and they are more restrictive than those set for outdoors. § 68-4 establishes the appropriate measurement methodology.</p> <p>To the comment directly - it is acoustically inappropriate to conduct sound level measurements within 1 foot of a wall, floor or ceiling:</p> <p>[FROM] ASTM E336 - 19 Standard Test Method for Measurement of Airborne Sound Attenuation between Rooms in Buildings</p> <p>11.3.1.1 Microphones shall be placed or scanned in an area at least 1 m from all major extended surfaces.</p> <p>11.3.1.2 The distance from all sources shall be at least 1 m when the room volume is less than 25 m<sup>3</sup>, at least 1.5 m when the room volume is 25 m<sup>3</sup> or larger but less than 100 m<sup>3</sup>, and at least 2 m in rooms that are 100 m<sup>3</sup> or larger.</p> <p>11.3.1.3 If the requirements of 11.3.1.1 and 11.3.1.2 leave a measurement space of less than 1 m<sup>3</sup>, then all measurements shall be at least 0.5 m from room surfaces <b>(6), but must never be less than 1 m from the separating partition in the receiving room</b> except as permitted in 11.3.2 or A1.3.1.</p> |                                                                                                                                                                       |                                                                                                                                                                                                                      |
| 68-4(D)(8)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Determining Sound in High Background Noise Levels                                                                                                                     | This section disregards the SNP requirements in 22a-69-3.6 regarding taking measurements in locations with high background noise.                                                                                    |

This section does not disregard the SNP requirement, it enhances upon it. Taken in total, § 68-4 (D)\* and (E) achieve the same goal but are more precise than the SNP requirements in 22a-69-3.6. They require the measurement of the background sound levels and establish the protocols for determining regulatory compliance status, under conditions of all background sound levels, not just in high background noise areas. Table 1 conforms with ANSI/ASA S12.9-2013/Part 3.

\* [Note, there are apparently two sections codified as § 68-4 (D) in the final submitted version of Chapter 68. This discussion refers to the ‘second’ section D, which includes Table 1]

Title 22a specifies no requirement for the measurement or use of background sound levels other than in high background noise areas (22a-69-3.6). There will be scenarios when the background sound level is slightly below the permissible limit (thus 22a-69-3.6 does not apply), and the total sound level (source plus background) is only slightly above the background sound level, but it is also above the permissible level. § 68-4 (D) and (E) clearly delineate how to address that situation, the SNP does not.

|              |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-5 Table 2 | Maximum Sound Levels | <p>New Table does not include emitter zones which can affect the allowable decibel levels. While stricter standards are allowable per statute, weaker standards are not.</p> <p>1) Table 2 contains a 65 dBA limit for receptor "Commercial" zone (analogous to Zone B in SNP) while upper limit should be 55 dBA.</p> <p>2) Table 2 contains a 70 dBA limit for a receptor Industrial zone (analogous to Zone C in SNP) while upper limit should be 62 dBA.</p> |
|--------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The initial issue raised in the review comment does not accurately reflect Table 2 when footnote 1 to that Table is considered. The footnote modifies the permissible limits for residential receptors based upon the location of that receptor. If a residential receptor is in a residential zone, the permissible day time limits are lower than they are if the residential receptor is in a commercial or industrial zone. The limits for a residential receptor are the same at night regardless of the source or the zone, because residents want to sleep no matter where they reside. (For further discussion on allowable noise levels see second paragraph below)

The limits in the SNP at 22a-69-3.5 are a complex permutation of sources and receptors. Table 2 simplifies that, which is an important goal for a successful municipal noise enforcement program. It also sets permissible limits for indoor measurements, which the SNP either did not envision, or the limits established in the SNP for the outdoors are unprotective for indoor application and enforcement.

The Allowable Noise Levels quoted in the review (from SNP Section 22a-69-3.5) are not actually the maximum levels permissible under the SNP. Sound levels exceeding those found in Section 22a-69-3.5 “shall be allowed” by as much as 8 dBA for “short-term noise level excursions over the noise level standards established by these Regulations” (e.g., the levels can

be exceeded by 8 dBA for 5 minutes/hour) (Section 22a-69-4(f). **This is an important point.** As such, for example, while the allowable level in Section 22a-69-3.5 is 55 dBA [Class B Emitter (commercial) to Class A Receptor (residential) – Day], it is actually 63 dBA so long as the source keeps it below that level for less than a cumulative 5 minutes in any hour. In the process, the measurement protocol required by that section (exceedance level measured over an hour) complicates enforcement immeasurably:

- more expensive, more complicated logging meters are required;
- measurements would have to be conducted over an hour for sources with fluctuating sound levels, and for enforcement by a Police Department that is problematic;
- data would have to be downloaded and post processed;
- extraneous sound sources (e.g., loud diesels, Metro-North, aircraft, loud pedestrian vocalizations, etc.) would have to be either excluded during the measurements (pause, back-erase) or deleted in post-processing; and,
- it has been directly experienced that some sound sources in Norwalk are very observant and wary of measurements and can modify their sound levels within moments of arrival on site, thus prohibiting the collection of an hour-long sample.

Instead of conducting measurements for an hour, Norwalk has chosen to utilize as a measurement metric the maximum level (Lmax), as observed directly on a sound level meter coincident with noise emissions from the source under investigation (this allows for exclusion of extraneous noise events), and establish allowable limits for that metric. In most cases they are the same limits as those in 22a-69-3.5, but in some cases they are somewhat higher, consistent with the levels allowed when modified by Section 22a-69-4(f).

To insure that the levels being measured from the source under investigation truly represent ongoing operations of the source, there is requirement for at least three measurements (§ 68-5(a)1).

The limit in Table 2 may not be exceeded by incidents representing the normal, usual operation of the Sound source, during any three or more sampling intervals, the duration of which shall be no less than one half minute, within any one hour period. If the total duration of the Sound under investigation is less than one and one half minute, the requirement for a minimum of three measurements shall be waived.

This approach will greatly simplify real-world enforcement of Chapter 68, when compared to the protocols required by the SNP.

Comment #1 (above) states that the upper limit for a commercial receptor should be 55 dBA.

When considering commercial receptors, Sections 22a-69-3.5(a)-(c) establish a limit of 66 dBA for an industrial source (Class C), 62 dBA for a commercial source (Class B), and 55 dBA for a residential source (Class A). § 68-5 Table 2 establishes a limit of 65 dBA for a commercial receptor from any source, which simplifies the Table and simplifies enforcement.

Comment #1 states that the upper limit for a commercial receptor should be 55 dBA, even though the SNP allows a limit of 61 dBA for a residential receptor (Class A) from an industrial source (Class C). For all other sources, 55dBA is the allowable limit for a residential receptor.

Commercial receptors do not have to be protected to the same level (or more than) residential receptors.

A permissible sound level limit of 65 dBA allows for unimpeded conversation at a distance of 1 meter\*, which is adequate to protect outdoor commercial communications. It is also, for comparative purposes, the daytime limit in New Jersey's state noise code (NJAC 7:29), which is updated every 7 years and is actively enforced statewide by every county health department.

It is virtually unheard of that a commercial facility would file a complaint against a residential source, and it is not reasonable that such a vanishingly rare improbability should drive the regulatory process to establish limits that are either overly restrictive for all sources or forces a complete restructuring of Table 2 to accommodate the consistency requirement. That's not to say that a commercial facility would be unprotected from a residential noise source. The Table 2 limit of 65 dBA could be applied to that source, as it would be to any other source. Further, it should be again noted that pursuant to 22a-69-4(f), the current permissible limit for a commercial receptor from a residential source could be as high as 63 dBA (55+8) for intermittent noise, and as high as 74 dBA from an industrial source.

Comment #2 states that the upper limit for an industrial receptor should be 62 dBA. In 22a-69-3.5 the allowable limit for an industrial receptor from an industrial emitter is 70 dBA. The allowable limit for an industrial receptor drops to 62 dBA if the emitter is either commercial or residential. The limit established in §68-5 Table 2 for an industrial receptor is 70 dBA regardless of the source. This simplifies the Table and is essentially no less protective than the SNP.

Complaints from industrial receptors regarding commercial and residential sources are unheard of. Regardless, Table 2 would protect them to the same level as they would be if the noise was coming from another industrial facility. Again, under the SNP, even if the emitter were a residential source, if it were emitting an intermittent noise the limit could be as high as 70 dBA (62+8). A limit of 70 dBA is thus consistent with the SNP.

It should be noted that Title 22a suffers a transcription error in section 22a-69-3.5(c). While the narrative describes the levels that apply to a Class A Noise Zone (residential) Emitter, the table immediately below that narrative specifies that it applies to a *Class C Emitter*, which is clearly in error given the context of the preceding sections (a) and (b).

\*"Protective Noise Levels Condensed Version of EPA Levels Document" EPA 550/9-79-100. United States Environmental Protection Agency Office of Noise Abatement and Control (1978)

|                          |                                                                     |                                                                                                                                                                                                                                                                                                                                   |
|--------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 68-5(A)(3)(2)<br>Table 3 | Sound Limits - Commercial Establishment<br>Sound Production Devices | 1) Measurement process of measuring at 10 feet from the facility or property line, whichever is further allows for measurements over 1 foot into receptor property. Does not comply with 22a-69-3.6<br>2) The WSDD day and night time limits of 75 and 65 are above the SNP allowable limits of 55 dBA limit to Class A receptors |
|--------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                             |
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| <p>§ 68-5 (3) establishes permissible sound level limits and measurement protocols for commercial establishments presenting amplified music in the Washington Street Development District (WSDD), an acoustically complex environment with an active nightlife, and other Commercial Districts. This section, including Table 3, was developed through extensive sound level measurements and public meetings. Measurements were conducted in the WSDD on weekend nights while the facilities were apparently aware of the study, and were exhibiting “good behavior”, but were observably commercially successful. Residents were consulted contemporaneously and found the levels acceptable, independently confirmed by the consultant. The goal was then to write a provision that would protect the residents and allow economic activity with clear and easily measured standards.</p> <p>Response to Comment #1 - One of the measurement locations specified in 68-5(A)(3)(2) is at the curb (see footnote 1, Table 3) immediately in front of the bar being investigated (10 feet from the facility). Comment 1 is incorrect that this would be more than 1 foot into the receptor property as specified in the SNP; it is actually within the Emitter’s Noise Zone. The “Emitter’s Noise Zone also includes contiguous publicly dedicated ... rights-of-way” (22a-69-4.(g)). Thus, the SNP would dictate measurements across the street. As a measurement location, the curb (10’ from the façade) is more stringent than the SNP (the façades of buildings across Washington Street are approximately 55 feet from each other).</p> <p>There are several reasons to conduct measurements at this location.</p> <p>The WSDD is an exceptionally complex acoustical environment with a number of Commercial Establishments employing Sound Production Devices (i.e., loud bars), all in close proximity. Some are adjacent to each other some are across the street from each other. Measurements conducted across the street from any one bar may not isolate the sound levels of that bar and may be difficult to interpret. In addition, there would be a busy road between the facility and the measurement location. A much better approach is to conduct measurements at the curb immediately in front of any given establishment, so that the sound emissions from that facility are isolated and accurately measured.</p> <p>Response to Comment #2 - While sound levels measured at the curb accurately isolate and represent the emissions of the facility, they are of course higher than they would be across the street “beyond the boundary of the Emitter’s Noise Zone” at the measurement location specified by the SNP. In order to evaluate the curbside limits relative to the SNP, we must determine what they would equate to at the boundary.</p> <p>Sound levels drop with distance from the source. A sound measured at 10 feet will drop by approximately 15 decibels when propagated to a distance of 55 feet (inverse square law). Thus, the daytime limit of 75 dBA measured at the curb will be the equivalent of approximately 60 dBA at the boundary of the Emitter’s Noise Zone, across the public right-of-way. The nighttime level of 65 dBA would propagate to approximately 50 dBA at the</p> |  |                                                                                                                                             |

boundary. When modified for a fluctuating source, as per Section 22a-69-4(f) (discussed above), these are reasonably consistent with the SNP.

Measurements at the curb will allow for an enforcement officer to quickly and accurately conduct measurements at a consistent location for all the bars. It will also allow for the facilities to self-police with their own measurements at this specific location, extending the efficacy of Norwalk's noise control program. With a relatively inexpensive non-logging meter they will be able to quickly check their own compliance status.

It is worth reiterating here that conducting measurements on Washington Street per strict SNP requirements will be completely unproductive. The sources are wary, precluding hour-long measurements, and there are a myriad of extraneous noise sources. The methods must be modified for this environment and the limits set appropriately for this fluctuating sound source if there is to be a meaningful noise control program.

Importantly, the levels in Table 3 represent thoroughly researched, considered, and debated jurisdictional will. The amendments to the City of Norwalk Noise Control Ordinance (Chapter 68) are the result of over a year's work by the city's noise expert, staff, and elected officials. The process included: extensive sound level measurements and observations conducted under real-world conditions; numerous public meetings with residents and potentially impacted commercial facilities; review and response to submitted written comments; and, Ordinance Committee hearings. The process was inclusive and thorough.

Response to Comment #3 – The Table 3 establishes a daytime property line limit of 65 dBA for commercial establishments utilizing sound production devices, primarily to be applied in the Washington Street bar district. The allowable limit under the SNP for a residential receptor from a commercial source is 55 dBA. When modified for a fluctuating source, as per Section 22a-69-4(f) (discussed above), this limit could be as high as 63 dBA. When modified for Lmax enforcement, a limit of 65 dBA is reasonably consistent with the SNP.

It should be noted that the background sound level on Washington Street (steady traffic, pedestrian voices), excluding extraneous noise sources, was measured to be 64-65 dBA.

|         |                            |                                                                                                                                |
|---------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 68-5(B) | Impulse Noise Requirements | Elimination of impulse noise requirements does not comply with SNP which contains requirements for impulse noise requirements. |
|---------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------|

This type of noise is fully addressed at § 68-5(2) Impulsive Sound. That provision also sets indoor limits, to address commercial emitters such as cross-fit gyms (dropping weights) for residential receptors in multi-use buildings, which the SNP does not.

Legal Technical Changes: Technical Changes that may be required or should be clarified.

| Ord Section | Description                                                                                      | Issues |
|-------------|--------------------------------------------------------------------------------------------------|--------|
| 68-5(B)     | There are two subsection (B). By the eliminated impulse noise requirements and for "Exclusions." |        |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                     |                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I don't see two subsections 68-5(B) in the version I have.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                     |                                                                                                                                                                                                                     |
| 65-5(B)<br>Exclusions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Eliminates construction from exclusions.            | Is this language transferred elsewhere or is this a total elimination? Could cause later problems.                                                                                                                  |
| [NOTE TO NORWALK. This is a point accurately and observantly made. In the amendment process we removed the exemption for construction equipment, and discussed replacing it with either with a daytime exemption for construction sites or more formal construction regulations (e.g., specific Construction Noise Limits, Noise Management Plans, etc.) (see emails of March 26 and April 2). We apparently did neither. As written, there is no exemption for daytime construction and the limits in Table 2 would apply, which would be overly restrictive for a construction site. We need to correct this].                                                                                                                                                                                                                                                              |                                                     |                                                                                                                                                                                                                     |
| 68-8(C)(1)-(6)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Factors to consider when taking noise measurements. | Most of this section is noise measurement technique and it unclear how and when they should be applied. Are they applied during a noise measurement with a meter, a measurement using the plainly audible standard? |
| <p>Section 68-8 addresses <i>Recreational Vehicles; Loudspeakers; and Sound Production Systems</i>. Measurement methods are established in Section 68-4 <i>Sound Level Procedures and Calculation of Corrected Source Level</i>.</p> <p>68-8(C) is a provision prohibiting the creation of a noise disturbance from a radio, television or phonograph. This prohibition is currently in the code. The proposed amendments [68-8(C) (1)-(6)] provide criteria with which an investigator may determine whether such a disturbance exists; they are not factors to consider when taking noise measurements.</p> <p>Regulatory compliance determination for 68-8 (C) is made through observations alone. It does not include measurements and the methodology does not apply to any other provision (e.g., sound level measurements (68-5) and plainly audible (68-5, 68-7).</p> |                                                     |                                                                                                                                                                                                                     |

Email from Eric Zwerling to Brian Candela on August 13, 2019 at 4:44 p.m.

Brian,

I believe #6 has to be reworded to exempt the noise from construction for all the activities during permitted hours. As is, only the site work is exempted on residential and noise sensitive properties, and neither is exempted on commercial/industrial properties - it's just allowed, without being explicitly exempted.

(6) After the appropriate permits have been obtained, Site Work or Construction work utilizing Construction Equipment on a Construction Site in a Residential Zone or Noise Sensitive Zone shall be limited to the weekdays, Monday through Friday, other than state or federal holidays, from 8:00 a.m. to 5:00 p.m. During the permitted hours, Site Work AND CONSTRUCTION WORK activities are exempt from the limits in Section 68-5(A). After the appropriate permits have been obtained, Site Work or Construction work utilizing Construction Equipment on a Construction Site in a Commercial Zone or Industrial Zone shall be limited to the weekdays, Monday through Friday, other than state or federal holidays, from 8:00 a.m. to 5:00 p.m. and on Saturdays from 10:00 a.m. to 3:00 p.m. DURING THE PERMITTED HOURS, SITE WORK AND CONSTRUCTION WORK ACTIVITIES ARE EXEMPT FROM THE LIMITS IN SECTION 68-5(A). THIS EXEMPTION DOES NOT APPLY TO NON SAFETY RELATED SOUND PRODUCTION DEVICES (E.G., PORTABLE RADIO).

The Committee needs to consider:

- Do they want to extend a blanket exemption to daytime construction (as above) or develop a whole construction noise management program (which is involved), At the very least the question should be asked.
- Do they want to provide some opportunity for homeowner work after 5PM weekdays or on the weekends? Otherwise, someone might have to take off work if they were doing some noisy construction and had a problematic neighbor.

To determine - does a homeowner need to pull a permit to do construction? If not, someone working without a permit would not enjoy this exemption.

Here is another approach, used in the New Jersey Model Ordinance:

All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Table 2. At all other times the limits set forth in Table 2 do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.

This covers all construction - commercial, homeowner. Allows some weekend work. Wouldn't require a permit (would protect a guy with a circular saw cutting some lumber for a Jungle Gym or roof patching and didn't need to pull a permit). Allows night work if you meet the limits of Table 2. It would trigger enough changes in this section that it would probably require a vote and maybe hearing. So, maybe not.

In any case, I guess the language in red above addresses the issue adequately, and is our best shot at a simple resubmit to the DEEP without having to go through the whole hearing process again.

Be well.

Eric

Eric Zwerling, M.S., INCE, ASA  
President, The Noise Consultancy, LLC  
Office (908) 237-0298

Director, Rutgers University Noise Technical Assistance Center

Chapter 68  
Noise

[HISTORY: Adopted by the City of Norwalk Common Council 7-26-1983; amended in its entirety 9-19-2001. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 11A.

Explosives — See Ch. 38.

Fire-alarm systems: institutions — See Ch. 40.

Nuisances — See Ch. 71.

Excavating and filling of land — See Ch. 97.

Zoning — See Ch. 118.

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**§ 68-1 Short title.**

This chapter shall be known as the "City of Norwalk Noise Control Ordinance."

**§ 68-2 Purpose.**

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

**§ 68-3 Definitions.**

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

**AFFECTED PERSON**

Any Person who has lodged a Noise complaint with the Noise Control Administrator that he/she is the receptor of Noise on property within the City, and said Affected Person has an interest in the property as an owner, tenant, or employee.

**AMBIENT SOUND**

The Sound level at a given location that exists as a result of the combined contribution in that location of all Sound sources, excluding the contribution of the source or sources under investigation for violation of this code and excluding the contribution of Extraneous Sound sources. Ambient Sounds are differentiated from Extraneous Sounds by the fact that Ambient Sounds are being emitted the majority of the time although they may not be continuous. Examples of Ambient Sounds may include steady traffic of properly muffled vehicles, summer insects in the distance, pedestrians talking, and adjacent commercial/industrial operations or mechanical equipment.

**COMMERCIAL ZONE**

All commercial districts, business districts, as defined in the Zoning Regulations of the City of Norwalk, and all uses associated therewith, either permitted as a right or as a special use.

**COMMON COUNCIL**

The Common Council of the City of Norwalk.

**CONSTRUCTION**

Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

**CONSTRUCTION EQUIPMENT**

Any equipment or device operated by fuel pneumatically or electric power used in Construction or Demolition work.

**CONSTRUCTION SITE**

Site where Construction or Demolition takes place.

**CONTINUOUS SOUND**

Sound with a duration of one second or longer measured by the slow response of a Sound Level Meter. Impulsive Sounds that are rapidly repetitive and have a cumulative duration of one second or longer shall be measured as Continuous Sound.

**CORRECTED SOURCE SOUND LEVEL**

The Sound Level attributable to the source or sources under investigation, which is calculated by subtracting the measured Ambient Sound level from the measured Total Sound Level.

**DAYTIME HOURS**

The hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, the hours between 8:00 a.m. and 8:00 p.m. on Saturday and the hours 9:00 a.m. through 8:00 p.m. on Sundays and federal and state holidays.

**DECIBEL**

The practical unit of measurement for Sound Pressure Level (SPL); the number of Decibels of a measured Sound is equal to 20 times the logarithm to the base 10 of the ratio of the Sound pressure of a reference Sound (20 micropascals) abbreviated "dB".

**DEMOLITION**

Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DIRECTOR OF HEALTH**

The Health Director of the City of Norwalk.

**DOMESTIC POWER EQUIPMENT**

Not limited to, power saws, drills, grinders, lawn and garden tools and other Domestic Power Equipment intended for use in residential areas by a home owner.

**EMERGENCY**

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**EMERGENCY VEHICLE**

Any motor vehicle authorized by the City of Norwalk to have Sound warning devices such as sirens and bells which can lawfully be used when responding to an Emergency.

**EMERGENCY WORK**

Work made necessary, at the site of an Emergency, to restore property to a safe condition following an Emergency, or work required to protect Persons or property from exposure to imminent danger.

## **EXTRANEOUS SOUND**

Any Sound that is intense and intermittent, and is neither Ambient Sound nor Sound attributable to a source or sources under investigation for a violation of this code. Such Sound includes but is not limited to sirens of Emergency Vehicles, unusually loud motor vehicle exhaust or braking, people shouting or talking next to the meter, animal vocalizations, aircraft or trains passing, car door slams, etc. When conducting compliance measurements, such Extraneous Sound sources may be noted but their Sound Levels are excluded.

## **HEALTH BOARD**

As defined in Chapter 57 in the City Code.

## **IMPULSE SOUND**

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Impulse Sound may be measured with the Sound Level Meter response set to Fast or Impulse.

## **INDUSTRIAL ZONE**

All industrial districts as defined by the Zoning Regulations of the City of Norwalk.

## **MOTOR VEHICLE**

Per Section 14-1(26) of the Connecticut General Statutes, as amended.

## **MUFFLER**

A device for abating Sounds, such as those produced by escaping gases.

## **MULTI-DWELLING UNIT BUILDING**

Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

## **MULTI-USE PROPERTY**

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated Sound Levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

## **NIGHTTIME HOURS**

The hours between 8:00 p.m. and 7:00 a.m., Sunday evening through Friday morning, Friday evening 8:00 p.m. through 8:00 a.m. Saturday morning and Saturday evening 8:00 p.m. through 9:00 a.m. Sunday morning. Saturday Nighttime Hours apply to state and federal holidays.

## **NOISE**

Any Sound, the intensity of which exceeds the standards set forth in § 68-5B or C of this chapter, or is otherwise not in conformance with the provisions herein.

## **NOISE CONTROL ADMINISTRATOR**

The Mayor, Chief of Police, and Director of the Board of Health or Person(s) designated to oversee enforcement of this Chapter, to review and act upon applications for variances, and perform other duties specified herein.

**NOISE DISTURBANCE**

Any Sound which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a Person, or which causes injury or damage to property or business.

**NOISE SENSITIVE ZONE**

Any area designated by the Norwalk Board of Health as a "Noise-Sensitive Zone" where Noise problems are likely to occur or known to exist. As a minimum requirement, said zone must include within its boundaries a school, hospital, house of worship, day-care center, nursing home, public library, senior citizen center, residence or court.

**PERSON**

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.

**PLAINLY AUDIBLE**

Any Sound that can be detected by an investigator using his or her unaided hearing faculties of normal acuity. As an example, if the Sound source under investigation is a portable or vehicular Sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify Plainly Audible Sound. The investigator need not determine the title, specific words, or the artist performing the song.

**PREMISES**

Any buildings, 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**

Either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a Multi-Dwelling Unit Building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real Property Line would be the interface between the residential area and the commercial area, or if there is an outdoor Sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

**RECREATIONAL VEHICLE**

Any internal combustion-engine powered vehicle which is being used for recreational purposes.

**RESIDENTIAL USE**

Any property used for human habitation, unless the habitation is a condition of employment, including, but not limited to:

1. Private property used for human habitation;
2. Commercial living accommodations and commercial property used for human habitation;
3. Recreational and entertainment property used for human habitation.

**RESIDENTIAL ZONE**

All city-owned property used for recreational or educational purposes and all residential districts and any commercial district when used for residential purposes, as defined in the Zoning Regulations of the City of Norwalk, and all uses permitted therewith either as a right or as a special use.

**SITE WORK**

Any activities involving the use of heavy equipment including but not limited to hydraulic point breaking of rock, pavement breaking (jack hammering), pile driving, excavation, activities related to the processing of earth and rock such as screening, splitting and crushing, removal of materials and filling.

**SOUND**

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**

The Sound Pressure Level in Decibels as measured with a Sound Level Meter using the A-weighting network. The level so read is designed "dB(A)" or "dBA."

**SOUND LEVEL METER**

An instrument used to take Sound Level measurements and which should conform, as a minimum, to the American National Standards Institute "Specifications for Sound Level Meters" S1.4-1984 (or subsequent revisions).

**SOUND LEVEL METER CALIBRATOR**

An instrument used to conduct field calibration checks of a Sound Level Meter, and which should conform, as a minimum, to the American National Standards Institute "Specifications and Verification Procedures for Sound Calibrator" S1.40-2006 (or subsequent revisions).

**SOUND PRESSURE LEVEL**

Twenty times the logarithm to the base 10 of the ratio of the pressure of a Sound to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/meter<sup>2</sup>), and is expressed in Decibels (dB).

**SOUND PRODUCTION DEVICE**

Any device whose primary function is the production of Sound, including, but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or Sound - amplifying equipment.

**TOTAL SOUND LEVEL**

The measured level which represents the sum of Sound from the source or sources under investigation for violation of this code and the Ambient Sound sources, excluding any Extraneous Sound, when measured on the property of an Affected Person or at another specified location.

**§ 68-4 Sound level measurement procedures and calculation of Corrected Source Sound Level.**

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

- A. All personnel conducting Sound measurements shall be trained in the current techniques and principles of Sound measuring equipment and instrumentation.
- B. Sound Level Meters and calibrators used to conduct measurements shall conform to the definitions of this chapter.

- C. The Sound Level Meter and calibrator shall be recertified annually by the manufacturer or at a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of Standards and Technology.
- D. The general steps listed below shall be followed when conducting Sound Level measurements:
- (1) A field calibration check of the Sound Level Meter shall be conducted before and after each set of measurements. If the meter drifts by more than 0.5 dB between calibrations, all measurements taken since the last valid calibration shall be voided.
  - (2) 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. Wind speed measurements shall be taken at the Sound measurement location, and Sound measurements shall not be conducted when the wind speed exceeds 12 MPH. Measurements may be taken in a location where the microphone is shielded from excess wind speeds.
  - (3) 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 feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.
  - (4) Unless otherwise specified in this chapter, Sound Level measurements or observations shall be conducted at or within the Property Line of an Affected Person, at any location or elevation on their property or within their Premises that reasonably represents a location at which they may be exposed to the Noise. This may include but is not limited to conducting measurements at an elevated balcony or bedroom window.
  - (5) The investigator shall survey the immediate vicinity of the source under investigation, in order to confirm the identity of the source, and to select suitable locations for the measurement of the Total Sound Level and the Ambient Sound Level.
  - (6) Total Sound Level measurements shall be conducted at or within the Property Lines of the Affected Person, unless otherwise specified in this chapter. The location of outdoor measurements, at the discretion of the investigator, must represent a location on that property which would see regular use by the complainant during the day, or be within 25 feet of the residential structure at night. The Sound Level Meter reading shall be noted during the period of observation, excluding Extraneous Sounds.
  - (7) When conducting indoor Sound Level measurements, the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The configuration of the windows and doors shall be the same when measuring Total and Ambient Sound Levels, and all Sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.
  - (8) Ambient Sound Level measurements shall be conducted in such a manner as to quantify the contribution of the Ambient Sound sources to the location at which the Total Sound Measurements were conducted. If Sound from the source under investigation can reasonably be discontinued, these measurements shall be conducted at the same location at which the Total Sound Level measurements were conducted, while the source under investigation is not operating. If Sound from the source under investigation cannot reasonably be discontinued (per § 68-9B) then for purposes of enforcement of this code, the Ambient Sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area. The choice of an alternate location or time for these measurements must take into consideration the primary source(s) of Ambient Sound (e.g., a major roadway), and remain the same relative distance from that Ambient Sound source at the new measurement location when compared to the distance between the ambient source and the location at which the Total Sound Level measurements were conducted, with traffic patterns relatively the same. The Sound Level Meter reading shall be noted during the periods of observation, excluding Extraneous Sounds.

- D. The Corrected Source Sound Level shall be calculated by subtracting the Ambient Sound Level from the Total Sound Level, as per Table 1, below.

**TABLE 1**  
**CORRECTION FOR**  
**AMBIENT SOUND LEVELS**  
**dB**

| Difference between Total Sound Level and Ambient Sound Level (TSL – ASL) in dB | Correction Factor to be Subtracted from Total Sound Level to Calculate Corrected Source Sound Level |
|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| 0-3                                                                            | Source Level $\leq$ Ambient Sound Level                                                             |
| 4,5                                                                            | 2                                                                                                   |
| 6-9                                                                            | 1                                                                                                   |
| 10 or more                                                                     | 0                                                                                                   |

*Procedure for Using Table 1*

Step 1: Subtract the Ambient Sound Level from the Total Sound Level.

Step 2: Refer to Table 1 to determine the correction factor for the difference calculated in Step 1.

Step 3: Subtract the correction factor from the Total Sound Level. The resultant number is the Corrected Source Sound Level.

- E. Compliance determination shall be based upon the Corrected Source Sound Level.
- (1) No violation shall be based upon any exceedance that is the result of numerical rounding.
  - (2) A violation shall only be confirmed if the Corrected Source Sound Level exceeds both the permissible sound level limits (Tables 2 and 3) and the measured Ambient Sound Levels.

**§ 68-5 Sound Level limits.**

- A. No Person shall operate or cause to be operated any source of Sound from any use occupancy in such a manner as to create a Sound Level which exceeds the limits set forth in the use occupancy category in Table 2, when measured at or within the Property Line of the receiving property.
- (1) **Continuous Sound**  
The limit in Table 2 may not be exceeded by incidents representing the normal, usual operation of the Sound source, during any three or more sampling intervals, the duration of which shall be no less than one half minute, within any one hour period. If the total duration of the Sound under investigation is less than one and one half minute, the requirement for a minimum of three measurements shall be waived.

**TABLE 2**  
**MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS**  
**BY RECEIVING LAND USE**  
**dB(A)**

| Residential <sup>1</sup><br>Day Time | Residential<br>Night Time | Commercial<br>24 hours | Industrial<br>24 hours |
|--------------------------------------|---------------------------|------------------------|------------------------|
| OUTDOORS                             |                           |                        |                        |
| 55                                   | 45                        | 65                     | 70                     |
| INDOORS <sup>2</sup>                 |                           |                        |                        |
| 45                                   | 35                        | 55                     | 60                     |

1. If the residential receptor is within a commercial or Industrial Zone, or within 200 feet of such a zone, the permissible Sound Level limits in Table 2 are increased by 5 dB(A), and the day time limits apply until 10:00 p.m.
2. Indoor measurements shall only be taken if the Sound source is on or within the same property as the receiving property, as in the case of a Multi-Dwelling Unit Building or a Multi-Use Property (e.g., Sound generated within a commercial unit of a Multi-Use Property building and received within a residential unit of the same building). In addition, indoor measurements shall be taken if the Property Line between the receiving property and the source property is a common wall, floor or ceiling

(2) Impulsive Sound:

No Person shall make, cause, allow or permit the operation of any impulsive source of Sound which has a maximum Sound Level in excess of eighty (80) dBA, when measured at or within the real Property Line of a residential receiver. At nighttime, if an Impulsive Sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently than four (4) times in any hour the levels set forth in Table 2 shall apply.

If measurements of Impulsive Sound are conducted indoors pursuant to § 68-5A(1)(2), the permissible limit is sixty (60) dBA. At nighttime, if an Impulsive Sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently than four (4) times in any hour the levels set forth in Table 2 shall apply.

(3) Commercial establishments serving alcohol or food, or presenting live or recorded musical performances

A. Notwithstanding any other provisions of this chapter, commercial establishments such as bars, restaurants, cabarets, or performance venues shall conform to the following standards:

(1) There shall be no Sound Production Device on the exterior of the establishment or inside the establishment at a distance of less than ten feet to an open door or window towards which it is oriented, without a permit.

(2) Sound Production Devices in commercial establishments shall not exceed any of the permissible Sound Level limits set forth in Table 3, below:

**TABLE 3**  
**MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS**  
**COMMERCIAL ESTABLISHMENT SOUND PRODUCTION DEVICES**

| Facility Location                             | Time of Day      | Sound Level Limit<br>dB(A)                              |                                  |                                     |
|-----------------------------------------------|------------------|---------------------------------------------------------|----------------------------------|-------------------------------------|
|                                               |                  | At a Distance of 10 Feet from the Facility <sup>1</sup> | Property Line of Affected Person | Inside Residence of Affected Person |
| Washington Street Development District (WSDD) | Day <sup>2</sup> | 75                                                      | 65                               | 50                                  |
|                                               | Night            | 65                                                      | 55                               | 35 within WSDD                      |
|                                               |                  |                                                         |                                  | Plainly Audible in Any Other Zone   |
| Any Other Commercial District                 | Day              | 70                                                      | 60                               | 40                                  |
|                                               | Night            | 60                                                      | 50                               | Plainly Audible                     |

1 – Exterior of the building or the Property Line, whichever is further from the source. On Washington Street, this is at the approximate curb line (where there is on-street parallel parking).

2 - For the purposes of applying Table 3, with regard to WSDD only, Daytime Hours are extended up to: (a) 10:00 p.m. on Sunday through Wednesday; (b) 11:00 p.m. on Thursday; and (c) 1:00 a.m. on Friday, Saturday and the night before federal and state holidays.

B. 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.
- (4) Warning devices required by OSHA or other state or federal safety regulations. This exclusion includes back-up alarms so long as they are self-adjusting to Ambient Sound Levels.
- (5) Noise created as a result of, or relating to, an Emergency.
- (6) Agricultural activities, when all internal combustion engines are equipped with a properly functioning Muffler.

- C. Restricted Uses and Activities. The following shall be exempt from this chapter and these regulations are subject to special conditions as spelled out and to the general prohibition of § 68-6:
- (1) Excluding Emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Table 2. At all other times, the limits set forth in Table 2 do not apply to non-commercial or non-industrial power tools used for landscaping maintenance. All motorized equipment used in these activities shall be operated with a Muffler and/or Sound reduction device.
  - (2) Excluding Emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators) shall not be operated on residential, commercial or industrial property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekend or state or federal holidays, unless such activities can meet the limits set forth in Tables 2 and 3. At all other times, Tables 2 and 3 do not apply. All motorized equipment used in these activities shall be operated with a Muffler and/or Sound reduction device.
  - (3) Self-contained, portable, non-vehicular music or Sound Production Devices shall not be operated on a public space or Public Right-Of-Way in such a manner as to be Plainly Audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., Sound, operated on a public space or Public Right-Of-Way, from such equipment shall not be Plainly Audible at a distance of 25 feet in any direction from the operator;
  - (4) Noise from 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 discharged from exhausts shall be adequately muffled to prevent loud and/or explosive Noises therefrom.
  - (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
  - (7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City, including, but not limited to, parades, sporting events, concerts and firework displays.
  - (8) Noise created by refuse and solid waste collection, provided that the activity is conducted during Daytime Hours.
  - (9) Noise created by the normal and ordinary activities of the Department of Public Works or any taxing district utility, including but not limited to the following: street sweeping, snow and ice control, maintenance of the sanitary sewer collection system, maintenance of storm drainage systems, solid waste collection and disposal, maintenance of traffic control devices and operation of off-street parking facilities.
  - (10) Noise created by public school Construction.
  - (11) Notwithstanding the Sound Level limits found in Table 2, the permissible Sound Level limit for residential HVAC equipment between the hours of 10:00 PM and 7:00 AM shall be 50 dBA when measured as specified in § 68-4D(6).
  - (12) All interior and exterior burglar alarms of a building or Motor Vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne Sound and fifteen (15) minutes for intermittent Sound after it has been activated. At all other times the limits set forth in Table 2 do not apply.

**§ 68-6 Prohibited activities.**

- A. General prohibition. It shall be unlawful for any Person to make, continue or cause to be made or continued any loud, unnecessary and unreasonable Noise.
- B. The following activities are prohibited:
- (1) Vehicle horns. No Person shall at any time Sound any horn or audible signal device of a Motor Vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.
  - (2) Emissions from stationary or idling mobile sources. No mobile source engine shall be allowed to operate for more than three consecutive minutes when the mobile source is not in motion except as follows:
    - (a) When a mobile source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
    - (b) When it is necessary to operate heating, cooling or auxiliary equipment installed on the mobile source when such equipment is necessary to accomplish the intended use of the mobile source;
    - (c) To bring the mobile source to the manufacturer's recommended operating temperature;
    - (d) When the outdoor temperature is below 20°F;
    - (e) When the mobile source is being repaired.
  - (3) Exhaust discharge. No Person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge is through a Muffler as defined by § 68-3 of this chapter or through an apparatus providing equal Noise reduction and that meet Noise level requirements identified in § 68-5B.
  - (4) Construction. No Person shall at any time operate Construction Equipment on the Construction or Demolition site or carry on any Construction or Demolition during Nighttime Hours, except in an Emergency in the interest of public safety and then only with a permit from the Director of Health or his/her designee and subject to all other applicable rules and regulations provided by state and local law, and said permit may not exceed a period of three days.
  - (5) Blasting. No Person shall at any time carry on blasting between the hours of 5:00 p.m. and 8:00 a.m. except in an Emergency in the interest of public safety and then only with a permit from the Director of Health or his/her designee and subject to all other applicable rules and regulations provided by state and local law and the permit may not exceed a period of three days.
  - (6) After the appropriate permits have been obtained, Site Work in a Residential Zone or Noise Sensitive Zone shall be limited to the weekdays, Monday through Friday, other than state or federal holidays, from 8:00 a.m. to 5:00 p.m. During the permitted hours, Site Work activities are exempt from the limits in Section 68-5(A).
  - (7) Leaf blowers. No Person shall at any time operate a leaf blower during Nighttime Hours in a Residential Zone.
  - (8) Nighttime. In-house Construction. No Person shall carry on nighttime in-house Construction unless that Construction activity takes place solely within the structure and emits no Sound or Noise outside of the structure.

**§ 68-7 Motor Vehicles.**

- A. All Motor Vehicles operated within the limits of the City of Norwalk shall be subject to the Noise standards and Decibel levels set forth in the regulations authorized in Sections 14-80a-1a through 14-80a-10a, inclusive, of the Regulations of Connecticut State Agencies.

- B. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is Plainly Audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- C. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is Plainly Audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.
- D. This section dealing with Motor Vehicle Noise shall be enforced by the Noise Control Administrator.

**§ 68-8 Recreational Vehicles; loudspeakers; Sound reproduction systems.**

- A. No Person shall create or cause to be created any unreasonably loud or disturbing Noise due to the operation of a Recreational Vehicle. A Noise shall be deemed to be unreasonably loud and a violation of this chapter when the Noise so generated exceeds the Noise level standards set forth in § 68-5B or C.
- B. The Norwalk Board of Health may designate Noise-Sensitive Zones where Noise problems are particularly likely to occur and likely to cause unusual problems. Loudspeakers and public address systems may be prohibited in such Noise-Sensitive Zones by the Norwalk Board of Health.
- C. Operating, playing or permitting the operation or playing of any radio, television, phonograph or similar device which reproduces or amplifies Sounds in such a manner as to create a Noise Disturbance is prohibited. Factors to be considered in determining whether a Noise Disturbance exists in a given situation include but are not limited to any or all of the following:
  - (1) The intensity of the Noise under investigation, to be assessed at the location at which a disturbance is alleged to occur.
  - (2) Whether the Noise has a characteristic nature that is unduly harsh, intrusive, or unnatural (e.g., squealing tonality or thumping bass), especially if accompanied by vibration perceptible to a human either in their limbs or torso, or in any structural component of their residence (e.g., rattling windows).
  - (2) The intensity of the ambient Noise.
  - (3) The proximity of the Noise source to a residence or the intrusion of Noise into the residence, especially the sleeping quarters.
  - (4) The time of day or night the Noise occurs.
  - (5) The existence of complaints concerning the Noise from Persons living or working in separate properties or dwellings who are affected by the Noise.
  - (6) The nature of the zoning district in which the Noise source is located, as well as that within 500 feet of the Noise source.

**§ 68-9 Inspections.**

- A. For the purpose of determining compliance with the provisions of this chapter, the Noise Control Administrator 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.
- B. No Person shall refuse to allow the Noise Control Administrator to perform reasonable Sound testing on any device or devices when such inspection/investigation is based on probable cause. Reasonable Sound testing on any device or devices includes but is not limited to requiring the temporary shutting down of said device or devices for the purposes of such testing except that upon showing that the inspection would produce a noticeable interruption of services that would cause discomfort to employees or customers or require a building engineer or other professional to work with the equipment, such authorized employee shall reschedule the

inspection for a more convenient time.

- C. 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 Noise Control Administrator 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.
- D. It shall be unlawful for any Person to refuse to allow or permit the Noise Control Administrator free access to any Premises when the Noise Control Administrator is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- E. 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.
- F. 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.

#### § 68-10 Violations and penalties.

- A. This section governs the initiation of enforcement actions, the issuance of citations or summons for violations of this Chapter, and the imposition of penalties for violations of this Chapter.
- B. If a Person violates any provision of this Chapter, or an order issued pursuant thereto, the Noise Control Administrator may issue a citation or summons, institute an action in a court of competent jurisdiction for injunctive relief, or any or all of them, to prohibit and prevent such violation or violations, in which event the matter shall proceed as a summary matter in a court of competent jurisdiction.
- C. Any Person violating any provision of this article may be punished as follows:
  - 1. *First Offense:* Upon the initial violation, written warning notice that a violation has occurred shall be issued. No fine shall be imposed for the initial violation.
  - 2. *Second Offense:* By a fine of one hundred dollars (\$100.00).
  - 3. *Third Offense and subsequent offenses:* By a fine of two hundred and fifty dollars (\$250.00).
  - 4. Each day that a violation exists shall constitute a separate violation of this Chapter. No more than one fine shall be imposed in one 24 hour period.
- D. The Noise Control Administrator shall classify a violation as a "major" or "minor" violation for the purposes of issuing an enforcement document and compliance grace period. If compliance is achieved during the grace period, then no fine shall be levied. A violation shall be classified as a major violation if it is not deemed a minor violation. A violation, regardless of how intense, is deemed to be minor if:
  - 1. The violation is not the result of willful, reckless or grossly negligent conduct of the violator; or
  - 2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; or
  - 3. The violation is not the result of the operation of a Sound Production Device of any kind, with the exception of safety warning devices.
- E. If the violation is deemed to be minor, the Noise Control Administrator shall notify the violator that the activity or condition must be corrected and compliance achieved within 30 days or less, at the discretion of the Noise Control Administrator, or any other reasonable period of time, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the Noise Control Administrator, an extension of the compliance deadline and the Noise Control Administrator may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The Noise Control Administrator shall offer special consideration, during the six-month period immediately following final

enactment of this chapter, for pre-existing Sound sources which will require physical plant modifications to come into compliance.

- F. If the violation is deemed to be minor, the Noise Control Administrator shall notify the violator that if he/she achieves compliance within the period of time specified in the enforcement document, the Noise Control Administrator shall not seek to collect a fine from the violator for that violation.
- G. If, during the grace period, the Sound emissions for which the violation has been assessed increase in duration or intensity, the Noise Control Administrator may revoke the grace period. In determining whether to revoke the grace period, the Noise Control Administrator may consider the following factors including but not limited to: the relative increase in intensity; whether the change of Sound emissions is directly related to ongoing Sound abatement measures; and the anticipated duration of the increased Sound Levels.
- H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the violation is reclassified as major, and the Noise Control Administrator may seek injunctive relief and/or a fine for a violation of this article. If the Noise Control Administrator has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the period of time specified in the enforcement document, the Noise Control Administrator may prosecute any violations documented during the grace period.
- I. If the violation is not deemed to be minor, it shall be classified as a major violation and the Noise Control Administrator shall notify the violator that he/she will not be allowed a period of time to correct the violation before a penalty is sought, and that he/she may be liable for a fine for that violation, and that the Noise Control Administrator may seek summary injunctive relief. The Noise Control Administrator shall offer special consideration, during the six-month period immediately following final enactment of this chapter, for pre-existing Sound sources which will require physical plant modifications to come into compliance.
- J. Any claims for a fine may be compromised and settled based upon the following factors:
  - 1. Mitigating or other extenuating circumstances;
  - 2. The timely implementation by the violator of measures which lead to compliance;
  - 3. The conduct of the violator; and
  - 4. The compliance history of the violator.
- K. The owner of the property, or any Person lawfully entitled to possess the property or manage a business Premises from which the offending Sound is emitted at the time the offending Sound is emitted shall be jointly and severally liable for compliance with this article even if not present upon or in the property and each shall be punished for its violation as shall the Person or Persons actually causing such Sound. It shall not be a lawful defense to assert that some other Person caused the Sound. The lawful possessor, manager or operator in or on the property shall be responsible for operating or maintaining the property in compliance with this article, and penalties shall be applied to such Person or Persons as well as to the Person or Persons actually causing the Sound.
- L. Any owner, lessee, agent, supervisor, or other Person in charge of operating, ordering, directing or allowing the operation or maintenance of any device or machine creating a nuisance Noise as prohibited in this article, shall be deemed guilty of violating this article.
- M. Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any Person to damages or other relief on account of injuries to Persons or property, and to maintain any action or other appropriate proceeding therefor.

#### **§ 68-11 Variances; promulgation of regulations; contracts.**

##### **A. Variances.**

- (1) Any Person living or doing business in Norwalk may apply to the Director of Health for a variance from one or more of the provisions of the chapter, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of Noise, provided that the applicant supplies all of the following information to the Director of Health:

- (a) Location and nature of activity.
  - (b) The time period and hours of operation of said activity.
  - (c) The nature and intensity of the Noise that will be generated.
  - (d) Any other information required by the Director of Health.
- (2) No variance from these regulations shall be issued unless it has been demonstrated that:
- (a) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
  - (b) The Noise levels generated by the proposed activity will not constitute a danger to the public health.
  - (c) Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- (3) Following receipt and review of an application for a variance, the Director of Health shall fix a date, time and location for a hearing on such application.
- (4) The Director of Health shall cause the applicant to publish at his/her own expense all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record and property owners within 200 feet.
- (5) Within 65 days of the receipt of the record of the hearings on a variance application, the Director of Health shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.
- (6) The Director of Health may, at his/her discretion, limit the duration of any variance granted under this chapter. Any Person holding a variance and needing an extension of time may apply for a new variance under the provisions of this chapter. Any such application shall include a certification of compliance with any condition imposed under the proposed variance.
- (7) The Director of Health may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:
- (a) Requirements for the best practical Noise control measures to be taken by the owner or operator of the source to minimize Noise during the period of the variance.
  - (b) Requirements for periodic reports submitted by the applicant relating to Noise, to compliance with any other conditions under which the variance was granted or to any other information the Director of Health deems necessary.
- (8) The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Director of Health upon application of any party if the Director of Health finds that protection of the public health so requires.
- (9) In any case where a Person seeking a variance contends that compliance with any provision of these regulations is not practical or possible because of the cost involved either in installing Noise control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Director of Health such financial records as the Director of Health may require.
- (10) A variance may include a compliance schedule and requirements for periodic reporting of increments of achievement of compliance.

(11) Failure to rule on the application in the designated time shall constitute approval of the variance.

- B. Any Person aggrieved by the decision of the Director of Health with respect to any variance may appeal to the Common Council within a period of 10 days of the reception of the Health Director's decision.
- C. The Director of Health is herewith authorized to recommend regulations from time to time not inconsistent with the State Public Health Code and/or the regulations of the State Department of Environmental Protection regarding Noise which shall, upon approval by the Common Council and State of Connecticut Department of Environmental Protection, become effective therewith.
- D. Contracts. Any written agreement, purchase order or contract whereby the City of Norwalk is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials, or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without violating the provisions of the chapter.

#### **§ 68-12 Severability.**

If any clause, sentence, paragraph or part of this chapter, or the application thereof to any Person, firm, corporation or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other Persons, firms, corporation or circumstances, but shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and to the Person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of this body that this chapter would have been adopted had such invalid provisions not been included.

#### **§ 68-13 Conflict with other regulations.**

In the event that provisions or standards of this chapter or adopted under this chapter shall conflict with regulations or standards set by the State of Connecticut Department of Environmental Protection, the more strict standard shall apply.

#### **§ 68-14 Word usage.**

In construing this chapter, masculine or neutral pronouns shall be substituted for those of feminine form and vice versa, and the plural of the singular and the singular of the plural, shall be substituted in any case which the context may require.

#### **§ 68-15 When effective.**

This chapter shall be effective 10 days following approval by the Connecticut Department of Energy and Environmental Protection.



*Regulations of Connecticut State Agencies*

TITLE 22a. Environmental Protection

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*Agency*

**Department of Environmental Protection**

*Subject*

**Control of Noise**

*Inclusive Sections*

**§§ 22a-69-1—22a-69-7.4**

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**Control of Noise**

**Sec. 22a-69-1. Definitions**

**Sec. 22a-69-1.1. General**

(a) **adaptive reuse** means remodeling and conversion of an obsolete or unused building or other structure for alternate uses. For example, older industrial buildings, warehouses, offices, hotels, garages, etc., could be improved and converted for reuse in terms of industrial processes, commercial activities, educational purposes, residential use as apartments, or other purposes.

(b) **aircraft** means any engine-powered device that is used or intended to be used for flight in the air and capable of carrying humans. Aircraft shall include civil, military, general aviation and VTOL/STOL aircraft.

(i) **aircraft, STOL** means any aircraft designed for, and capable of, short takeoff and landing operations.

(ii) **aircraft, VTOL** means any aircraft designed for, and capable of, vertical take-off and landing operations such as, but not limited to, helicopters.

(c) **airport** means an area of land or water that is used, or intended to be used, for the landing and takeoff of aircraft and is licensed by the State of Connecticut Bureau of Aeronautics for such use. "Airport" shall include all buildings and facilities if any. "Airport" shall include any facility used, or intended for use, as a landing and take-off area for VTOL/STOL aircraft, including, but not limited to, heliports.

(d) **ANSI** means the American National Standards Institute or its successor body.

(e) **best practical noise control measures** means noise control devices, technology and procedures which are determined by the Commissioner to be the best practical, taking into consideration the age of the equipment and facilities involved, the process employed, capital expenditures, maintenance cost, technical feasibility, and the engineering aspects of the applicable noise control techniques in relation to the control achieved and the non-noise control environmental impact.

(f) **commissioner** means the Commissioner of the Department of Environmental Protection or his/her designated representative.

(g) **construction** means any, and all, physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling and paving.

(h) **daytime** means 7:00 a.m. to 10:00 p.m. local time.

(i) **director** means the Director of the Office of Noise Control in the Department of Environmental Protection.

(j) **emergency** means any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

(k) **intrusion alarm** means a device with an audible signal which, when activated,

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indicates intrusion by an unauthorized person. Such alarm may be attached to, or within, any building, structure, property or vehicle.

(l) **ISO** means the International Organization for Standardization, or its successor body.

(m) **lawn care and maintenance equipment** means all engine or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner, and including, but not limited to, lawn mowers, riding tractors, snowblowers, and including equipment intended for infrequent service work in inhabited areas, typically requiring skilled operators, including, but not limited to, chain saws, log chippers or paving rollers.

(n) **nighttime** means 10:00 p.m. to 7:00 a.m. local time.

(o) **noise zone** means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way and waters of the State.

(p) **office of noise control** means the office within the Department of Environmental Protection designated by the Commissioner to develop, administer and enforce the provisions of Chapter 442 of the Connecticut General Statutes.

(q) **OSHA** means the Occupational Safety and Health Act and any amendments thereto or successor regulations administered by the U.S. and Connecticut Departments of Labor or successor bodies.

(r) **person** means 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.

(s) **public emergency sound signal** means an audible electronic or mechanical siren or signal device attached to an authorized emergency vehicle or within or attached to a building for the purpose of sounding an alarm relating to fire or civil preparedness. Such signal may also be attached to a pole or other structure.

(t) **SAE** means the Society of Automotive Engineers, Inc., or its successor body.

(u) **safety and protective devices** means devices that are designed to be used, and are actually used, for the prevention of the exposure of any person or property to imminent danger, including, but not limited to, unregulated safety relief valves, circuit breakers, protective fuses, back-up alarms required by OSHA or other state or federal safety regulations, horns, whistles or other warning devices associated with pressure buildup.

(v) **site** means the area bounded by the property line on or in which a source of noise exists.

(Effective June 15, 1978)

**Sec. 22a-69-1.2. Acoustic terminology and definitions**

(a) All acoustical terminology used in these Regulations shall be in conformance with the American National Standards Institute (ANSI), "Acoustical Terminology," contained in publication S1.1 as now exists and as may be hereafter modified. The definitions below

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shall apply if the particular term is not defined in the aforesaid ANSI publication.

(b) **audible range of frequency** means the frequency range 20 Hz to 20,000 Hz which is generally considered to be the normal range of human hearing.

(c) **background noise** means noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time ( $L_{90}$ ) in which the measurement is taken.

(d) **continuous noise** means ongoing noise, the intensity of which remains at a measurable level (which may vary) without interruption over an indefinite period or a specified period of time.

(e) **decibel (dB)** means a unit of measurement of the sound level.

(f) **excessive noise** means emitter Noise Zone levels from stationary noise sources exceeding the Standards set forth in Section 3 of these Regulations beyond the boundary of adjacent Noise Zones.

(g) **existing noise source** means any noise source(s) within a given Noise Zone, the construction of which commenced prior to the effective date of these Regulations.

(h) **fluctuating noise** means a continuous noise whose level varies with time by more than 5 dB.

(i) **frequency** means the number of vibrations or alterations of sound pressure per second and is expressed in Hertz.

(j) **hertz (Hz)** means a unit of measurement of frequency formerly stated as, and numerically equal to, cycles per second.

(k) **impulse noise** means noise of short duration (generally less than one second), especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition.

(l) **infrasonic sound** means sound pressure variations having frequencies below the audible range for humans, generally below 20 Hz; subaudible.

(m)  $L_{10}$  means the A-weighted sound level exceeded 10% of the time period during which measurement was made.

(n)  $L_{50}$  means the A-weighted sound level exceeded 50% of the time period during which measurement was made.

(o)  $L_{90}$  means the A-weighted sound level exceeded 90% of the time period during which measurement was made.

(p) **octave band sound pressure level** means the sound pressure level for the sound contained within the specified preferred octave band, stated in dB, as described in ANSI S1.6-1967: Preferred Frequencies and Band Numbers for Acoustical Measurements.

(q) **peak sound pressure level** means the absolute maximum value of the instantaneous sound pressure level occurring in a specified period of time.

(r) **prominent discrete tone** means the presence of acoustic energy concentrated in a narrow frequency range, including, but not limited to, an audible tone, which produces a one-third octave sound pressure level greater than that of either adjacent one-third octave and which exceeds the arithmetic average of the two adjacent one-third octave band levels

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by an amount greater than shown below opposite the center of frequency for the one-third octave band containing the concentration of acoustical energy.

| <i>1/3 Octave Band Center Frequency (Hz)</i> | <i>dB</i> |
|----------------------------------------------|-----------|
| 100                                          | 16        |
| 125                                          | 14        |
| 160                                          | 12        |
| 200                                          | 11        |
| 250                                          | 9         |
| 315                                          | 8         |
| 400                                          | 7         |
| 500                                          | 6         |
| 630                                          | 6         |
| 800                                          | 5         |
| 1000                                         | 4         |
| 1250                                         | 4         |
| 1600                                         | 4         |
| 2000                                         | 3         |
| 2500                                         | 3         |
| 3150                                         | 3         |
| 4000                                         | 3         |
| 5000                                         | 4         |
| 6300                                         | 4         |
| 8000                                         | 5         |
| 10000                                        | 6         |

(s) **reference pressure** is 0.00002 Newtons per square meter (N/M<sup>2</sup>), or 20 microPascals, for the purposes of these Regulations.

(t) **sound** means 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.

(u) **sound analyzer** means a device, generally used in conjunction with a sound level meter, for measuring the sound pressure level of a noise as a function of frequency in octave bands, one-third octave bands or other standard ranges. The sound analyzer shall conform to Type E, Class II, as specified in ANSI S1.11-1971 or latest revision.

(v) **sound level** means a frequency weighted sound pressure level, obtained by the use

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of metering characteristics and the weighting A, B, or C as specified in ANSI, "Specifications for Sound Level Meters," S1.4-1971 or latest revision. The unit of measurement is the decibel. The weighting employed must always be stated as dBA, dBB, or dBC.

(w) **sound level meter** means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

(x) **sound pressure level (SPL)** means twenty times the logarithm to the base ten of the ratio of the sound pressure in question to the standard reference pressure of 0.00002 N/M<sup>2</sup>. It is expressed in decible units.

(y) **ultrasonic sound** means sound pressure variations having frequencies above the audible sound spectrum for humans, generally higher than 20,000 Hz; super-audible.

(z) **vibration** means an ascillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

(Effective June 15, 1978)

**Sec. 22a-69-1.3. Coordination with other laws**

(a) Nothing in these Regulations shall authorize the construction or operation of a stationary noise source in violation of the requirements of any other applicable State law or regulation.

(b) Nothing in these Regulations shall authorize the sale, use or operation of a noise source in violation of the laws and regulations of the Connecticut Department of Motor Vehicles, the Federal Aviation Administration, the U.S. Environmental Protection Agency, or any amendments thereto.

(Effective June 15, 1978)

**Sec. 22a-69-1.4. Incorporation by reference**

(a) The specifications, standards and codes of agencies of the U.S. Government and organizations which are not agencies of the U.S. Government, to the extent that they are legally incorporated by reference in these Regulations, have the same force and effect as other standards in these Regulations.

(b) These specifications, standards and codes may be examined at the Office of Noise Control, Department of Environmental Protection, State of Connecticut.

(c) Any changes in the specifications, standards and codes incorporated in these Regulations are available at the Office listed in (b) above. All questions as to the applicability of such changes should also be referred to this Office.

(Effective June 15, 1978)

**Sec. 22a-69-1.5. Compliance with regulations no defense to nuisance claim**

Nothing in any portion of these Regulations shall in any manner be construed as

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authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with these Regulations is not a bar to a claim of nuisance by any person. A violation of any portion of these Regulations shall not be deemed to create a nuisance per se.

(Effective June 15, 1978)

**Sec. 22a-69-1.6. Severability**

If any provision of these Regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of these Regulations which can be given effect without the invalid provisions or application; and to this end, the provisions of these Regulations and the various applications thereof are declared to be severable.

(Effective June 15, 1978)

**Sec. 22a-69-1.7. Exclusions**

These Regulations shall not apply to:

(a) Sound generated by natural phenomena, including, but not limited to, wind, storms, insects, amphibious creatures, birds, and water flowing in its natural course.

(b) The unamplified sounding of the human voice.

(c) The unamplified sound made by any wild or domestic animal.

(d) Sound created by bells, carillons, or chimes associated with specific religious observances.

(e) Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, as authorized by subsection (d) of Section 14-80 and Section 14-1a of Chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness.

(f) Sound created by safety and protective devices.

(g) Farming equipment or farming activity.

(h) Back-up alarms required by OSHA or other State or Federal safety regulations.

(i) Sound created by any mobile source of noise. Mobile sources of noise shall include, but are not limited to, such sources as aircraft, automobiles, trucks, and boats. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, has turned off its engine and ancillary equipment, and has begun the physical process of removing the contents of the vehicle.

(Effective June 15, 1978)

**Sec. 22a-69-1.8. Exemptions**

Exempted from these Regulations are:

(a) Conditions caused by natural phenomena, strike, riot, catastrophe, or other condition over which the apparent violator has no control.

(b) Noise generated by engine-powered or motor-driven lawn care or maintenance

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equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

(c) Noises 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 discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.

(d) Noise that originates at airports that is directly caused by aircraft flight operations specifically preempted by the Federal Aviation Administration.

(e) Noise created by the use of property for purposes of conducting speed or endurance events involving motor vehicles shall be exempted but such exemption is effective only during the specific period(s) of time within which such use is authorized by the political subdivision or governmental entity having lawful jurisdiction to sanction such use.

(f) Noise created as a result of, or relating to, an emergency.

(g) Construction noise.

(h) 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.

(i) 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.

(j) Patriotic or public celebrations not extending longer than one calendar day.

(k) Noise created by aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions.

(l) Noise created by products undergoing test, where one of the primary purposes of the test is evaluation of product noise characteristics and where practical noise control measures have been taken.

(m) Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical powers, 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.

(Effective June 15, 1978)

**Sec. 22a-69-1.9. Burden of persuasion regarding exclusions and exemptions**

In any proceeding pursuant to these Regulations, the burden of persuasion shall rest with the party attempting to enforce the Regulations. Notwithstanding the foregoing, if an exclusion or exemption stated in these Regulations would limit an obligation, limit a liability, or eliminate either an obligation or a liability, the person who would benefit from the application of the exclusion or exemption shall have the burden of persuasion that the exclusion or exemption applies and that the terms of the exclusion or exemption have been

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met. The Department shall cooperate with and assist persons in determining the application of the provisions of these Regulations.

(Effective June 15, 1978)

**Sec. 22a-69-2. Classification of land according to use**

**Sec. 22a-69-2.1. Basis**

Noisy Zone classifications shall be based on the actual use of any parcel or tract under single ownership as detailed by the Standard Land Use Classification Manual of Connecticut (SLUCONN).

(Effective June 15, 1978)

**Sec. 22a-69-2.2. Multiple uses**

Where multiple uses exist within a given Noise Zone, the least restrictive land use category for the Emitter and Receptor shall apply regarding the noise standards specified in Section 3 of these Regulations.

(Effective June 15, 1978)

**Sec. 22a-69-2.3. Class A noise zone**

Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land.

**Class A Land Use Category.** The land uses in this category shall include, but not be limited to, single and multiple family homes, hotels, prisons, hospitals, religious facilities, cultural activities, forest preserves, and land intended for residential or special uses requiring such protection.

The specific SLUCONN categories in Class A shall include:

1. Residential
  - 11 Household Units\*
  - 12 Group Quarters
  - 13 Mobile Home Parks and Courts
  - 19 Other Residential
5. Trade
  - 583 Residential Hotels
  - 584 Hotels, Tourist Courts and Motels
  - 585 Transient Lodgings
6. Services
  - 651 Medical and Other Health Services; Hospitals
  - 674 Correctional Institutions
  - 691 Religious Activities
7. Cultural, Entertainment and Recreational
  - 711 Cultural Activities

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712 Nature Exhibitions

713 Historic and Monument Sites

\*Mobile homes are included if on foundations

9. Undeveloped, Unused and Reserved Lands and Water Areas

92 Reserved Lands

941 Vacant Floor Area—Residential

(Effective June 15, 1978)

**Sec. 22a-69-2.4. Class B noise zone**

Lands designated Class B shall generally be commercial in nature, areas where human beings converse and such conversation is essential to the intended use of the land.

**Class B Land Use Category.** The land uses in this category shall include, but not be limited to, retail trade, personal, business and legal services, educational institutions, government services, amusements, agricultural activities, and lands intended for such commercial or institutional uses.

The specific SLUCONN categories in Class B shall include:

4. Transportation, Communication and Utilities

46 Automobile Parking

47 Communication

5. Trade

51 Wholesale Trade

52 Retail Trade - Building Materials

53 Retail Trade - General Merchandise

54 Retail Trade - Food

55 Retail Trade - Automotive Dealers and Gasoline Service Stations

56 Retail Trade - Apparel and Accessories

57 Retail Trade - Furniture, Home Furnishings and Equipment

58 Retail Trade - Eating, Drinking and Lodging - Except 583, 584, and 585

59 Retail Trade - N.E.C.\*

6. Services

61 Finance, Insurance and Real Estate Services

62 Personal Services

63 Business Services—Except 637

64 Repair Services

65 Professional Services—Except 651

67 Government Services—Except 672, 674, and 675

68 Educational Services

69 Miscellaneous Services—Except 691

7. Cultural, Entertainment and Recreational

71 Cultural Activities and Nature Exhibitions—Except 711, 712, and 713

72 Public Assembly

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- 73 Amusements
- 74 Recreational Activities
- 75 Resorts and Group Camps
- 76 Parks
- 79 Other, N.E.C.\*
- \*Not Elsewhere Classified
- 8. Agriculture
- 81 Agriculture
- 82 Agricultural Related Activities
- 9. Undeveloped, Unused, and Reserved Lands and Water Area
- 91 Undeveloped and Unused Land Area
- 93 Water Areas
- 94 Vacant Floor Area—Except 941
- 99 Other Undeveloped Land and Water Areas, N.E.C.\*
- \*Not Elsewhere Classified

(Effective June 15, 1978)

**Sec. 22a-69-2.5. Class C noise zone**

Lands designated Class C shall generally be industrial where protection against damage to hearing is essential, and the necessity for conversation is limited.

**Class C Land Use Category.** The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, military bases, mining, and other lands intended for such uses.

The specific SLUCONN categories in Class C shall include:

- 2. Manufacturing — Secondary Raw Materials
- 3. Manufacturing — Primary Raw Materials
- 4. Transportation, Communications and Utilities — Except 46 and 47
- 6. Services
- 637 Warehousing and Storage Services 66 Contract Construction Services
- 672 Protective Functions and Related Activities
- 675 Military Bases and Reservations
- 8. Agriculture
- 83 Forestry Activities and Related Services
- 84 Commercial Fishing Activities and Related Services
- 85 Mining Activities and Related Services
- 89 Other Resource Production and Extraction, N.E.C.\*
- \*Not Elsewhere Classified

(Effective June 15, 1978)

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**Sec. 22a-69-3. Allowable noise levels**

**Sec. 22a-69-3.1. General prohibition**

No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her Noise Zone so as to violate any provisions of these Regulations.

(Effective June 15, 1978)

**Sec. 22a-69-3.2. Impulse noise**

(a) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime to any Class A Noise Zone.

(b) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure at any time to any Noise Zone.

(Effective June 15, 1978)

**Sec. 22a-69-3.3. Prominent discrete tones**

Continuous noise measured beyond the boundary of the Noise Zone of the noise emitter in any other Noise Zone which possesses one or more audible discrete tones shall be considered excessive noise when a level of 5 dBA below the levels specified in Section 3 of these Regulations is exceeded.

(Effective June 15, 1978)

**Sec. 22a-69-3.4. Infrasonic and ultrasonic**

No person shall emit beyond his/her property infrasonic or ultrasonic sound in excess of 100 dB at any time.

(Effective June 15, 1978)

**Sec. 22a-69-3.5. Noise zone standards**

(a) No person in a Class C Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

|                           | <i>Receptor</i> |          |              |                |
|---------------------------|-----------------|----------|--------------|----------------|
|                           | <i>C</i>        | <i>B</i> | <i>A/Day</i> | <i>A/Night</i> |
| <i>Class C Emitter to</i> | 70 dBA          | 66 dBA   | 61 dBA       | 51 dBA         |

Levels emitted in excess of the values listed above shall be considered excessive noise.

(b) No person in a Class B Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

Receptor

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|                        | <i>Receptor</i> |          |              |                |
|------------------------|-----------------|----------|--------------|----------------|
|                        | <i>C</i>        | <i>B</i> | <i>A/Day</i> | <i>A/Night</i> |
| <i>Class B Emitter</i> | 62 dBA          | 62 dBA   | 55 dBA       | 45 dBA         |
| <i>to</i>              |                 |          |              |                |

Levels emitted in excess of the values listed above shall be considered excessive noise.

(c) No person in a Class A Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

|                        | <i>Receptor</i> |          |              |                |
|------------------------|-----------------|----------|--------------|----------------|
|                        | <i>C</i>        | <i>B</i> | <i>A/Day</i> | <i>A/Night</i> |
| <i>Class C Emitter</i> | 62 dBA          | 55 dBA   | 55 dBA       | 45 dBA         |
| <i>to</i>              |                 |          |              |                |

Levels emitted in excess of the values listed above shall be considered excessive noise.

(Effective June 15, 1978)

**Sec. 22a-69-3.6. High background noise areas**

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 level by 5 dBA, provided that no source subject to the provisions of Section 3 shall emit noise in excess of 80 dBA at any time, and provided that this Section does not decrease the permissible levels of the other Sections of this Regulation.

(Effective June 15, 1978)

**Sec. 22a-69-3.7. Existing noise sources**

Existing noise sources constructed between the effective date of these Regulations and January 1, 1960 shall be provided a permanent five (5) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Existing noise sources constructed prior to 1960 shall be provided a permanent ten (10) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Additionally, all existing noise sources shall be provided twenty-four (24) months in order to achieve compliance with these Regulations if a notice of violation has been, or may be, issued to the source. This time period begins with the effective date of these Regulations, not with the date of the notice of violation.

(Effective June 15, 1978)

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**Sec. 22a-69-3.8. Adaptive reuse of existing buildings**

Buildings and other structures that exist as of the effective date of these Regulations which have been remodeled or converted for adaptive reuse or which may be remodeled or converted at a future date shall be provided a permanent five (5) dBA maximum noise level allowance above the Emitter Class of the new use of the building over levels otherwise herein required.

(Effective June 15, 1978)

**Sec. 22a-69-4. Measurement procedures**

Acoustic measurements to ascertain compliance with these Regulations shall be in substantial conformity with standards and Recommended Practices established by professional organizations such as ANSI and SAE.

(a) Personnel conducting sound measurements shall be trained and experienced in the current techniques and principles of sound measuring equipment and instrumentation. The Commissioner shall establish sufficiently detailed measurement procedure guidelines specifying, but not necessarily being limited to, the following: The appropriate utilization of fast or slow sound level meter dampening when making sound level measurements, the rise time specified in microseconds for measuring impulse noise, the need for a whole circuit in such measurements, and the proper weighting to be used in measuring impulse noise.

(b) Instruments shall conform to the following standards of their latest revisions:

(i) ANSI S1.4-1971, "Specifications for Sound Level Meters," Type 1 or 2.

(ii) ANSI S1.11-1966, "Specifications for Octave, One-Half Octave and One-Third Octave Band Filter Sets," Type E, Class II.

(iii) If a magnetic tape recorder or a graphic level recorder or other indicating device is used, the system shall meet the applicable requirements of SAE Recommended Practice J184, "Qualifying a Sound Data Acquisition System."

(c) Instruments shall be set up to conform to ANSI S1.13-1971, "Methods for the Measurement of Sound Pressure Levels."

(d) Instrument manufacturer's instructions for use of the instruments shall be followed, including acoustical calibration of equipment used.

(e) The determination of  $L_{90}$  to ascertain background levels requires a statistical analysis. A graphic level recording and visual interpretation of the chart recording to determine the levels is an acceptable method. Instruments designed to determine the cumulative distribution of noise levels are also acceptable used either in the field or in the laboratory to analyze a tape recording. Dynamic visual estimations from a sound level meter are not an acceptable method for determining such levels. Sound level sampling techniques are acceptable and will often be the most practical to employ. Such a technique using Connecticut Noise Survey Data Form #101 with accompanying instructions is acceptable.

(f) In measuring compliance with Noise Zone Standards, the following short-term noise level excursions over the noise level standards established by these Regulations shall be allowed, and measurements within these ranges of established standards shall constitute

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compliance therewith:

| Allowable Levels above standards (dBA) | Time period of such levels (minutes/hour) |
|----------------------------------------|-------------------------------------------|
| 3                                      | 15                                        |
| 6                                      | 7½                                        |
| 8                                      | 5                                         |

(g) Measurements taken to determine compliance with Section 3 shall be taken at about one foot beyond the boundary of the Emitter Noise Zone within the receptors's Noise Zone. The Emitter's Noise Zone includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records. The Emitter's Noise Zone also includes contiguous publicly dedicated street and highway rights-of-way, railroads rights-of-way and waters of the State.

(Effective June 15, 1978)

**Sec. 22a-69-5. Other provisions**

**Sec. 22a-69-5.1. Intrusion alarms**

No person shall cause, suffer, allow or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle or thirty minutes when attached to any building or structure.

The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

(Effective June 15, 1978)

**Sec. 22a-69-6. Airport facilities**

**Sec. 22a-69-6.1. Extent of regulation**

Airport facilities are subject to Section 3 to the extent not preempted by state or federal law or regulation.

(Effective June 15, 1978)

**Sec. 22a-69-6.2. Reserved**

(This subsection is reserved for possible future regulations regarding the assessment of, and long-range plans for, the reduction of airport facility noise impacts to the extent not preempted by state or federal law or regulation.)

(Effective June 15, 1978)

**Sec. 22a-69-7. Variances and enforcement procedures**

**Sec. 22a-69-7.1. Variances**

(a) Any person who owns or operates any stationary noise source may apply to the Commissioner for a variance or a partial variance from one or more of the provisions of these Regulations. Applications for a variance shall be submitted on forms furnished by the Commissioner and shall supply such information as he/she requires, including, but not limited to:

(i) Information on the nature and location of the facility or process for which such application is made.

(ii) The reason for which the variance is required, including the economic and technical justifications.

(iii) The nature and intensity of noise that will occur during the period of the variance.

(iv) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.

(v) A specific schedule of the best practical noise control measures, if any, which might be taken to bring the source into compliance with those Regulations from which a variance is sought, or a statement of the length of time during which it is estimated that it will be necessary for the variance to continue.

(vi) Any other relevant information the Commissioner may require in order to make a determination regarding the application.

(b) Failure to supply the information required by the form furnished by the Commissioner shall be cause for rejection of the application unless the applicant supplies the needed information within thirty (30) days of the written request by the Commissioner for such information.

(c) No variance shall be approved unless the applicant presents adequate proof to the Commissioner's satisfaction that:

(i) Noise levels occurring during the period of the variance will not constitute a danger to the public health; and

(ii) Compliance with the Regulations would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefits to the public.

(d) In making a determination on granting a variance, the Commissioner shall consider:

(i) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property which is caused or threatened to be caused.

(ii) The social and economic value of the activity for which the variance is sought.

(iii) The ability of the applicant to apply best practical noise control measures, as defined in these Regulations.

(e) Following receipt and review of an application for a variance, the Commissioner shall fix a date, time and location for a hearing on such application.

(f) The Commissioner shall cause the applicant to publish at his/her own expense all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record.

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(g) Within sixty (60) days of the receipt of the record of the hearings on a variance application, the Commissioner shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.

(h) The Commissioner may, at his/her discretion, limit the duration of any variance granted under these Regulations. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of these Regulations. Any such application shall include a certification of compliance with any condition imposed under the previous variance.

(i) The Commissioner may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:

(i) Requirements for the best practical noise control measures to be taken by the owner or operator of the source to minimize noise during the period of the variance.

(ii) Requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Commissioner deems necessary.

(j) The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Commissioner upon application of any party if the Commissioner finds that protection of the public health so requires.

(k) In any case where a person seeking a variance contends that compliance with any provision of these Regulations is not practical or possible because of the cost involved either in installing noise control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Commissioner such financial records as the Commissioner may require.

(l) A variance may include a compliance schedule and requirements for periodic reporting of increments of achievement of compliance.

(Effective June 15, 1978)

**Sec. 22a-69-7.2. Transference**

No person who owns, operates or maintains a stationary noise source shall transfer a variance from one site to another site.

(Effective June 15, 1978)

**Sec. 22a-69-7.3. Responsibility to comply with applicable regulations**

Approval of a variance shall not relieve any person of the responsibility to comply with any other applicable Regulations or other provisions of federal, state or local laws, ordinances or regulations.

(Effective June 15, 1978)

**Sec. 22a-69-7.4. Violations and enforcement**

(a) No person shall violate or cause the violation of any of these Regulations.

(b) Each day on which a violation occurs or continues after the time for correction of

*Regulations of Connecticut State Agencies*

TITLE 22a. Environmental Protection

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*Department of Environmental Protection*

§22a-69-7.4

the violation given in the order has elapsed or after thirty (30) days from the date of service of the order, whichever is later, shall be considered a separate violation of these Regulations.

(c) Qualified personnel of the Office of Noise Control shall, with or without complaints, conduct investigations and ascertain whether these Regulations have been complied with. Whenever such personnel determines that any of these Regulations have been violated or there has been a failure to comply therewith, they shall make and serve upon the person(s) responsible for the violation a written order specifying the nature of the violation or failure and affording a reasonable time for its correction or remedy. Prior to the issuance of such order, such personnel shall make a reasonable effort in light of the circumstances to correct a violation or achieve compliance by means of conference, conciliation and persuasion as required by statute. Unless the person(s) against whom an order has been served files a written answer thereto with the Commissioner within thirty (30) days after the date of service of the order and requests a hearing thereon, such order shall become final and effective in accordance with the Connecticut Administrative Procedures Act and the rules, practices, and procedures of the Department of Environmental Protection.

(Effective June 15, 1978)

# **Code of Ethics**

**Section 32-9**

**Section 32-13**

**Section 32-14**

**Section 32-15**

## **Chapter 32. Code of Ethics**

[HISTORY: Adopted by the City of Norwalk Common Council 6-26-2007.[1] Amendments noted where applicable.]

### **GENERAL REFERENCES**

Administration — See Ch. 9.

[1] Editor's Note: This ordinance also superseded former Ch. 32, Code of Ethics, adopted 9-12-1967, effective 9-30-1967.

### **§ 32-9. Specific violations.**

- A. Ordinances. It shall be a violation of the Code of Ethics for any ~~officer~~Officer or ~~employee~~Employee to willfully violate any provisions of the Code of the City of Norwalk concerning the purchasing of supplies, materials, equipment and services.
- B. Removal of original records. It shall be a violation of the Code of Ethics for any ~~officer~~Officer or ~~employee~~Employee or former ~~officer~~Officer or ~~employee~~Employee to take for personal or other non-City use any original records, files or documents belonging to the City. With appropriate authorization, ~~officer~~Officers and ~~employee~~Employees may take copies of nonconfidential documents to the same extent such documents would be available to the public.
- C. Access to information by Board of Ethics. It shall be a violation of the Code of Ethics for any ~~officer~~Officer or ~~employee~~Employee to intentionally deny access to information requested by the Board of Ethics or a duly appointed ~~investigating panel~~Investigating Panel in the course of an investigation or a public hearing, except to the extent that such information is exempt from disclosure or otherwise privileged under relevant federal, state or local law.
- D. Whistle blower protection. It shall be a violation of the Code of Ethics for any ~~officer~~Officer, ~~employee~~Employee, or a ~~Agency~~Agency to threaten or retaliate or take any actions against an ~~individual~~Individual, including in areas of ~~in~~-employment, career advancement opportunities, benefits or contracting, as result of that ~~individual~~Individual making an ethics complaint or providing truthful information as part of any investigation of or hearing on an ethics complaint.

- E. Violation of confidentiality. It shall be a violation of the Ethics Code for any ~~officer~~Officer, ~~employee~~Employee or ~~a~~Agency to intentionally violate any confidentiality ~~confidentially~~ requirement provided for under the Ethics Code.
- F. Additional specific violations. The Common Council may, from time to time, pass ordinances with the specific intent that said ordinances are to be incorporated into and enforced through the ethics process.
- G. Examples only. Violations of the Code of Ethics are not limited to the specific examples listed herein and may include other circumstances and actions that contravene the purpose and Intent of the Code.

**§ 32-13. Effect of violation.**

A. A violation of this Code of Ethics:

- (1) By an elected ~~officer~~Officer may ~~shall~~ be considered dereliction of official duty, and therefore a cause for censure, impeachment or removal from office under the Code of the City of Norwalk.
- (2) By an ~~officer~~Officer of an appointed board or commission may ~~shall~~ be considered misconduct in the performance of duties and therefore a ground for censure or removal under the Code of the City of Norwalk.
- (3) By an ~~employee~~Employee of an ~~a~~Agency may ~~shall~~ be considered misconduct and therefore a ground for censure or discipline, including demotion in rank or grade, termination of a contract or discharge under the Code of the City of Norwalk and any applicable labor agreement.

- B. Any ~~i~~Individual who is found in violation of this chapter may be subject to a civil action by the City to recover damages, if any that are incurred by the City as a result of said ~~i~~Individual's

unethical conduct. The costs of the hearing process under this Code of Ethics shall not be included in the aforementioned damages and shall not be recoverable under the provisions of this subsection.

- C. Any officer~~Officer~~ or employee~~Employee~~ who is determined to have violated the provisions of this chapter shall have a copy of said decision placed in his or her official personnel file.
- D. The effect of a violation of this Code of Ethics on the validity of a decision or action in connection with which the violation occurred shall be determined by general principles of law.<sup>[KM1]</sup>
- E. Any officer~~Officer~~ or employee~~Employee~~ who is determined to have violated the provisions of this chapter may be subject to a fine in an amount up to \$250 per violation, and such fine may be in addition to any other discipline imposed under this chapter.<sup>[KM2]</sup>
- F. Where there has been a violation of the Norwalk Code of Ethics, the City may void any municipal purchase, contract or ruling which the Board of Ethics has found to have been influenced by that violation, pursuant to Section 7-479 of the Connecticut General Statutes.

**§ 32-14. Time limits on complaints.**

- A. Except as provided in Subsection B of this section, no allegation in a complaint of a violation of the Code of Ethics shall be ruled upon by the Board of Ethics if six months or more has passed between the time of the alleged violation and the filing of the complaint. In the event that multiple violations have been alleged, only those violations alleged in the complaint which have occurred within six months of the filing of the complaint to the Board of Ethics may be the subject of a hearing.
- B. In the event that a violation or evidence of a violation of this Code of Ethics has been actively concealed, such action shall have the effect of tolling the period of limitation during said period of concealment until such alleged violation is discovered.

- C. If an officerOfficer or employeeEmployee under investigation leaves office or employment, the Board of Ethics, by a majority vote, shall have the power to continue the investigation.

**§ 32-15. Proposed revisions.**

- A. The Board of Ethics may propose revisions to the Code of Ethics to the Common Council to ensure ~~assure~~ its continuing effectiveness, and to hold public hearings, in its discretion, on matters pertaining to the administration of the Code of Ethics.

# **Taxation (Chapter 103)**

**Section 103-6**

**Section 103-7**

**Section 103-12**

## Chapter 103. Taxation

### Article III. Tax Relief for the Elderly and Disabled Homeowners

#### § 103-6. Eligibility.

- F. All permanent residents in the domicile who are aged 25 years and older and who occupy such domicile for more than 200 days of each year shall have combined annual aggregate adjusted gross income, as defined in the Internal Revenue Code of 1954, as amended, plus tax exempt interest per Section 103 of the Internal Revenue Code of 1954, as amended, social security benefits, railroad retirement benefits and income from other tax-exempt sources of an amount less than ~~450.70~~155.76% of the maximum qualifying income defined in Connecticut General Statutes, Section 12-170aa, for the Grand List of October 1, 1999, this amount shall be \$33,500. The amount shall be adjusted annually as provided by Section 12-170aa(2) for the calendar year immediately preceding the year for which tax relief is sought and shall be posted in the office of the Assessor.

#### § 103-7. Filing of application.

- A. In order to be entitled to the benefits provided herein, an application must be filed with the Assessor not earlier than February 1 nor later than May 15 of each odd-numbered year so that these benefits shall be available to the taxpayer in the next following two fiscal years. This application for such tax relief must be acted on in accordance with the eligibility standards hereinabove set forth. The Assessor is empowered to require all necessary documents to determine eligibility, and the withholding of such information, if reasonably available, shall be sufficient reason for the denial of tax relief. **[Amended 5-28-2002; 10-28-2014]**
- ~~B. For tax relief on the Grand List of 1999, applications must be filed no later than October 27, 2000, and for tax relief on the Grand List of 2000, applications must be filed no later than April 15, 2001. Application for tax relief filed prior to the passage of this amendment shall automatically be eligible for the increased tax relief provided herein for the Grand List of 1999 and the increased relief provided herein shall be applied retroactively by the Assessor on such applications.~~

## § 103-12. Amount of benefits; annual adjustment.

[Amended 3-27-2001; 4-27-2004; 2-26-2008; 3-22-2011; 10-28-2014; 4-12-2016; 2-28-2017]

Any individual or married couple eligible for tax relief as provided by this article, having income as provided in § **103-6F** of this article, shall be entitled to tax relief as follows:

A. For the 2017-2019 grand list and all subsequent tax years:

1. Tier 1: ~~117.44~~126.42% of maximum qualifying state income: \$1,500~~1,450~~.
2. Tier 2: ~~117.44~~126.44% to ~~150.70~~155.76%; \$900~~800~~, except that, if the maximum credits granted under the provisions of this program shall exceed an amount equal to ½% of the total property tax assessed in Norwalk in the preceding fiscal year, then the amount of benefits for Tier 2 shall be adjusted by subtracting the total amount of benefits for Tier 1 from the maximum tax relief allowed under the program pursuant to § 103-9, leaving a balance of tax relief available to Tier 2. The amount of benefits for each Tier 2 recipient shall be calculated by dividing the remaining funding for tax relief available to Tier 2 by the total number of eligible persons in Tier 2.



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## MEMORANDUM

Date: July 8, 2019

TO: Greg Burnett, Chairman,  
Finance/Claims Committee

FROM: Michael Stewart, Assessor

RE: Local Elderly Tax Relief Program

The goals of the City of Norwalk's Elderly Homeowners Program and the below recommended changes to Norwalk Code - Chapter 103-12, Elderly Homeowners program, are to provide meaningful tax relief to the most financially vulnerable seniors in Norwalk.

Attached for the consideration of the Finance/Claims Committee, is an impact summary and recommended changes to Chapter 103-12, Elderly Homeowners program. The Finance/Claims Committee has expressed an interest in proposing EHO program changes for Ordinance Committee, and Common Council approval. The below proposed ordinance amendments would alter the Local EHO program in following ways:

- The maximum qualifying income for **Tier 1** would increase to \$ 56,000 (up \$4,450), and set the income maximum at 126.42% of the State EHO Program maximum income, estimated at \$44,300 for FY 2020-21.
- The maximum tax relief provided to **Tier 1** recipient would increase by \$50 to \$1,500 from \$1,450.
- The **Tier 2** income maximum would increase to \$ 69,000 (up \$2,850), and to 155.76% of the estimated State EHO Program maximum income from the current ordinance maximum of 150.70%.
- The maximum tax credit for **Tier 2** recipients would increase to \$900, (up \$100) from the current \$800.

### Impact of proposed ordinance changes:

- **Tier 1** recipient count is projected to increase to 1,036 in FY 2020-21, from 986 in FY 2019-20.
- Sixty (60) current **Tier 2** recipients would qualify for **Tier 1** benefits, and credit increases of up to \$700 over the FY 2019-20 **Tier 2** maximum. Attrition for persons currently in **Tier 1** is estimated at 10.
- New participants in **Tier 2** is projected at 64 for FY 2020-21, and the total count at 122, up from 118 in FY 2019-20.
- Total Local EHO participants is estimated at 1,157 for FY 2020-21, up 53 from 1,104 in FY 2019-20.
- **Tier 1** maximum credits is projected at \$1,500 for FY 2020-21, up from \$1,450 in FY 2019-20.
- **Tier 2** maximum benefit will increase to \$900 for FY 2020-21, up from \$800 in FY 2019-20.
- Total tax relief projected for elderly homeowners with incomes of \$56,000 or less (**Tier 1**) will increase by \$118,236 to \$1,477,237 from \$1,359,001, and total credits for elderly homeowners with incomes between \$56,001 and \$69,000 (**Tier 2**) will increase by \$14,325 to \$103,332 from the previous amount of \$89,007.
- Total Local EHO Tax Credit will increase by \$132,561 to \$1,580,569 for FY 2020-21, up from \$1,448,008.
- Also, the estimated total expenditure for Norwalk's Local EHO program in FY 2020-21 of \$1,580,569 is up \$468,170 from \$1,112,397 in FY 2013-14.
- Average tax credits is projected to increase to \$1,366 for FY 2020-21, from \$1,312 in FY 2019-20, and \$967 in FY 2013-14.
- The recommended changes to Norwalk's Elderly Homeowners Program will add approximately 65 new households to the programs, and produce additional tax savings of \$50 to \$700 per recipient to 1,157 program participants at the estimated additional cost to other taxpayers of \$132,600.

CC: Finance/Claims Committee  
Brian Candela, Associate Corporation Counsel  
Henry M. Dachowitz, Chief Financial Officer  
Chitsamay Lam, Comptroller

