

COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

February 19, 2019
7:00 p.m. – Room A300
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

- 1. ROLL CALL**
- 2. PUBLIC HEARING (possible action on):**
 - Discuss and vote on Real Estate Tax Agreement Ordinance for Wall Street – West Avenue Neighborhood Plan Area (formerly known as the Innovation District).
- 3. PUBLIC HEARING DISCUSSION:**
- 4. PUBLIC COMMENT**
- 5. ACCEPTANCE OF MINUTES:**
 - January 15, 2019 - ordinance committee regular meeting
 - January 30, 2019 - ordinance committee special meeting
- 6. OLD BUSINESS:**
 - Chapter 68, Noise Ordinance
- 7. NEW BUSINESS:**
 - Community Services Department
- 8. DISCUSSION ITEM:**
- 9. ADJOURNMENT**

**Real Estate Tax Agreement Ordinance for
Wall Street – West Avenue Neighborhood
Plan Area**

(formerly known as the Innovation District)

LEGAL NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Common Council Ordinance Committee will hold a Public Hearing on Tuesday, February 19, 2019 at 7:00 p.m. in Norwalk City Hall, Room A-300, 125 East Avenue, Norwalk, Connecticut for the purpose of discussing and voting on the following new ordinance:

Real Estate Tax Agreement Ordinance**For The Wall Street - West Avenue Neighborhood Plan Area****§ 99-1. Concept**

This ordinance provides the Common Council the authority to negotiate and approve tax agreements associated with new real estate investment within the Wall Street - West Avenue Neighborhood Plan Area. The tax agreements are limited to new real estate investment that increases the taxable valuation of a parcel of real estate by one hundred percent (100%) or more, exclusive of land value. The tax incentive may not exceed fifty percent (50%) of the incremental tax assessment associated with the new investment, and the term of the tax agreement may not exceed seven (7) years.

Tax agreements under this ordinance shall be consistent with the provisions of Connecticut General Statutes Sections 12-65b and 12-65h and the subject real estate investment must contribute to creating a developed environment that is conducive to attracting industries that are growing or mature and/or are attraction and retention priorities as determined by the Approved Market Feasibility Study.

The Common Council, having the authority to consider tax agreements as granted to it by the State of Connecticut, has determined that (a) this ordinance will assist in advancing the City's public policy objective of revitalizing the Plan Area by allowing the use of incentives to promote private sector real estate investment that contributes to and supports industry sectors appropriate to the Plan Area and therefore expands economic opportunity and job creation within it, and (b) without the ability to use such incentives, the public policy objective of revitalizing the Plan Area will not be sufficiently achieved in a timely manner.

§ 99-2. Objective

The objective of this ordinance is to strengthen the economic competitiveness of the Plan Area in attracting new real estate investment. Attracting this investment is intended to (a) increase the Plan Area's overall economic value, which is currently recognized by the United States Department of Housing and Urban Development (HUD) and the United States Department of Treasury as economically distressed, and (b) improve the Plan Area's physical condition, which is recognized by the City of Norwalk as blighted and substandard.

This ordinance seeks to incentivize new private real estate investment by suspending the City's realization of up to 50% of the full taxable value of new real estate investments that meet or exceed one hundred percent (100%) of the underlying property's existing taxable value, exclusive of the land value, for a term of no more than seven (7) years. This ordinance requires that the City continue to collect not less than the full value of the property taxes collected on the subject property immediately prior to the new investment and further assures the City's immediate realization of not less than 50% of the taxes resulting from such investment.

This ordinance provides an opportunity to increase property values, increase municipal tax revenue, improve infrastructure, enhance transportation services, and create longterm employment opportunities within the Plan Area by (a) leveraging the existing urban infrastructure to target infill development that has the potential to reduce the existing blight and vacancies within the Plan Area, (b) increasing the Plan Area's contribution to the City's Grand List by using limited tax incentives to realize development that requires such support and that the City wants realized as well as encouraging economic partnerships, (c) directly supporting the creation of new jobs in the Plan Area, and (d) assisting in meeting regional demand and need for industry, consumer services, health care, employment and housing in the Plan Area.

§ 99-3. Available Tax Incentives

- (a) Tax incentives under this ordinance may not exceed fifty percent (50%) of the incremental tax assessment associated with the proposed real estate investment, and the term of the Final Tax Agreement may not exceed seven (7) years.
- (b) The aggregate maximum amount of tax incentives available under this ordinance shall be ten million dollars (\$10,000,000), or such other amount as may be determined by the Common Council from time to time.

§ 99-4. Definitions

- (a) Applicant: Any person or entity that files an application under this ordinance.
- (b) Approved Market Feasibility Study: The Connecticut Economic Resource Center (CERC) Market Feasibility Study for the Wall Street - West Avenue Redevelopment Area dated November 2018, as amended from time to time, or any subsequent document approved by the Common Council as reflecting an appropriate industry analysis for the Plan Area.
- (c) Arts and Entertainment: Establishments that operate facilities or provide services to meet the cultural, entertainment, and recreational interests of their patrons.
- (d) Artist Workspace: Space within an existing building used for the creation, rehearsal, or teaching of any visual art or craft and occasional exhibition of artwork, including, but not limited to, painting, photography, sculpture, print making, video, film, and pottery, or any performing art, whether for live or recorded performance, including music, dance, and theater, and accessory sales of such art.
- (e) Artist Live/Workspace: A building or any portion thereof used by a Certified Artist, as verified by the City of Norwalk, as both their Dwelling Unit and Artist Workspace.
- (f) Final Tax Agreement: The tax agreement executed by the parties setting forth the terms of the application approved by the Common Council.
- (g) Boutique Manufacturing: The custom manufacturing of certain products by hand in limited quantities for distribution primarily to a local or regional market; including but not limited to: confections and other custom-made food and beverage items, ceramics, furniture, artwork including painting, printmaking and sculpture, and similar products.
- (h) Light Manufacturing: Product production that is characterized by less capital-intensive and more labor-intensive operations. These products tend to be targeted toward end consumers rather than other businesses.
- (i) Manufacturing: Any business that uses components, parts, or raw materials to make a finished good. These finished goods can be sold directly to consumers or to other manufacturing businesses that use them for making a different product.
- (j) Mixed Use: A real estate development that blends two or more eligible uses.
- (k) Municipal Impact Analysis: An analysis of the impact of the proposed project on the City's infrastructure and public services, and shall include a quantitative assessment as to whether the tax revenues expected to be generated by the proposed project will be sufficient to cover the infrastructure and public service costs expected to be incurred by the City as a result of such project.
- (l) Office: A location, usually a building or portion of a building, where a company conducts its business.
- (m) Plan Area: The Wall Street - West Avenue Neighborhood Plan Area, as set forth in the Plan Area map approved by the Common Council.
- (n) Related Entity: Any corporation, limited liability company, partnership, sole proprietorship, joint venture, trust, estate, foundation, association, business, company or other organization, whether or not operated for profit, that controls, is controlled by, or is under common control with the Applicant.
- (o) Research & Development Facilities: An establishment in which facilities for scientific research, investigation, testing or experimentation are located, but not facilities for the manufacture of products, except as incidental to the main purpose of the laboratory.
- (p) Retail: Business or firms engaged in offering goods and services directly to consumers at that particular location.

§ 99-5. Eligible Land Uses

The following land uses are eligible for tax incentives under this ordinance:

Eligible Land Uses

The following land uses are eligible for tax incentives under this ordinance:

- (a) Arts and Entertainment;
- (b) Artist Workspace;
- (c) Artist Live/Workspace;
- (d) Colleges, universities, and schools including business and trade schools, and studios;
- (e) Light Manufacturing;
- (f) Boutique Manufacturing;
- (g) Manufacturing;
- (h) Mixed;
- (i) Office;
- (j) Research and Development Facilities;
- (k) Residential, but only as part of a Mixed Use development; and
- (l) Retail.

§99-6.

Eligibility

(a) An Applicant shall not be eligible for tax incentives under this ordinance if it or a Related Entity has:

- (1) obtained a building permit with respect to the proposed real estate project, or a substantially similar project, prior to January 1, 2019;
 - (2) had past due debt totaling five thousand dollars (\$5,000) or more owed to the City of Norwalk for more than one (1) year within the five (5) years immediately preceding the filing of an application for incentives under this ordinance or during the term of the Final Tax Agreement; or
 - (3) had two (2) or more gross violations of any provision of the Norwalk City Code, including, without limitation, health, safety or building violations, within the two (2) years immediately preceding the filing of an application for incentives under this ordinance or during the term of the Final Tax Agreement.
- (b) The proposed real estate investment must evidence a minimum value of not less than 100% of the existing property valuation, as determined by the Norwalk Tax Assessor, exclusive of land valuation.
- (c) The Municipal Impact Analysis for the proposed project must demonstrate a positive financial benefit to the City from such project.
- (d) The applicant must demonstrate that BUT FOR the proposed tax incentives the proposed project would NOT achieve investment returns consistent with a similar private real estate investment at the time of the application.
- (e) The proposed real estate investment must contribute to creating a developed environment that is conducive to attracting and retaining industries that are growing or mature and/or are potential attraction or priority retention industries as identified in the Approved Market Feasibility Study.
- (f) The proposed real estate investment must be consistent with the provisions of Connecticut General Statutes Sections 12-65b and 12-65h, the City of Norwalk Plan of Conservation and Development, and the Wall Street - West Avenue Neighborhood Plan, as each of the same may be amended from time to time.

§99-7.

Application and Review Process

- (a) Applications for tax incentives under this ordinance shall be submitted to the Chief of Economic and Community Development with an estimated processing fee on a form approved by the Common Council. Applications involving improvements of 50,000 square feet or more shall be accompanied by an independent third party Municipal Impact Analysis. For improvements of less than 50,000 square feet, the Municipal Impact Analysis may be performed by the Chief of Economic and Community Development, or, in his or her discretion, may require the Applicant to obtain an independent third party Municipal Impact Analysis.
- (b) The Chief of Economic and Community Development shall consider any other tax incentives/benefits that have been applied for or approved relating to the proposed real estate project in determining whether the application meets the eligibility criteria set forth in this ordinance.
- (c) Upon receipt of a complete application, the Chief of Economic and Community Development shall, within thirty (30) days, make a written determination as to whether the application meets the eligibility criteria set forth in this ordinance. Upon a determination that the application meets such criteria, he or she shall forward to the Planning Committee of the Common Council the application, the Municipal Impact Analysis, and such determination.
- (d) The Planning Committee, upon receipt of the above information from the Chief of Economic and Community Development, shall seek written comment on the application from the Chief of Finance, Chief of Operations, the Executive Director of the Redevelopment Agency, and the Board of Estimate and Taxation (BET). If any of the above does not provide comments within forty five (45) days of the date of request for same, the application shall advance for further review by the Planning Committee noting lack of said comment.
- (e) The Planning Committee shall make the application and the materials provided in subsections (b) and (c) of this Section 99-7 available to the public for a forty-five (45) day public comment period. The Planning Committee shall hold a properly noticed public hearing on the application at its first regular meeting following the conclusion of the forty-five (45) day public comment period. At any point after such public hearing, the Planning Committee may in its discretion determine to advance the application to the Common Council.
- (f) The Final Tax Agreement must be executed by the City within ninety (90) days following the date of approval of the application by the Common Council. The Applicant must execute the Final Tax Agreement within thirty (30) days after the City executes it.
- (g) If the application is approved by the Common Council, the tax incentives shall be effective in the first fiscal year following the issuance of a Certificate of Occupancy for the property that is the subject of the Final Tax Agreement.
- (h) Approved Applicants must commence construction of the proposed project within six (6) months following the date of execution of the Final Tax Agreement.
- (i) Approved Applicants must complete the proposed project, as evidenced by receipt of a Certificate of Occupancy, within thirty-six (36) months following the date of execution of the Final Tax Agreement.
- (j) The Applicant has a continuing duty to disclose all applications for, or approvals of, other tax incentives/benefits that have occurred during the term of the Final Tax Agreement within ten (10) business days of submission of such application or receipt of approval. If the Applicant applies for or is approved for any other tax incentives/benefits during the term of the Final Tax Agreement, then an updated Municipal Impact Analysis shall be completed within thirty (30) days of disclosure of such application or approval. The Chief of Economic and Community Development shall have the discretion to complete an updated Municipal Impact Analysis or to transfer the responsibility to complete it to the Applicant. If the Applicant is required to complete an updated Municipal Impact Analysis, then consistent with Section 99-7(a), it must be completed by an independent third party.

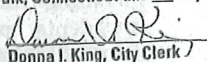
§ 99-8.

Post-Award Compliance

Should the Applicant: (a) relocate its business from Norwalk; (b) become noncompliant with the provisions of this ordinance, including, without limitation, subsections 99-6(b) or (c); (c) declare bankruptcy, become insolvent or dissolve; (d) substantially reduce its operations on the subject property during the term of the Final Tax Agreement, with "substantially reduced operations" meaning for purposes of this ordinance, among other things, a reduction in square feet occupied within the project by more than 20%, a reduction in workforce by more than 20%, a failure to construct upon additional phases of construction, and/or sale or lease of some or all of the property subject to the Final Tax Agreement; (e) apply for any other tax incentives/benefits during the term of the Final Tax Agreement and/or (f) in any other way fail to comply with the Final Tax Agreement, this ordinance, and/or Connecticut General Statutes Sections 12-65b and 12-65h, the Final Tax Agreement shall be deemed breached and may be terminated by the Common Council. In the event of such action by the Common Council, the private party(s) to the Final Tax Agreement shall be required to pay all assessments and fees that were abated under such agreement.

Dated at Norwalk, Connecticut this 1st day of February 2019.

ATTEST:


Donna I. King, City Clerk

THE HOUR: Please publish once on Saturday, February 9, 2019

Real Estate Tax Agreement Ordinance

For

The Wall Street - West Avenue Neighborhood Plan Area

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ceramics, furniture, artwork including painting, printmaking and sculpture, and similar products.

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- (k) Residential, but only as part of a Mixed Use development; and
- (l) Retail.

§99-6. Eligibility

- (a) An Applicant shall not be eligible for tax incentives under this ordinance if it or a Related Entity has:
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 - (2) had past due debt totaling five thousand dollars (\$5,000) or more owed to the City of Norwalk for more than one (1) year within the five (5) years immediately preceding the filing of an application for incentives under this ordinance or during the term of the Final Tax Agreement; or
 - (3) had two (2) or more gross violations of any provision of the Norwalk City Code, including, without limitation, health, safety or building violations, within the two (2) years immediately preceding the filing of an application for incentives under this ordinance or during the term of the Final Tax Agreement.
- (b) The proposed real estate investment must evidence a minimum value of not less than 100% of the existing property valuation, as determined by the Norwalk Tax Assessor, exclusive of land valuation.
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- ~~(a)~~(b) The Chief of Economic and Community Development shall consider any other tax incentives/benefits that have been applied for or approved relating to the proposed**

real estate project ~~by the Applicant at the time of this application in determining whether the application meets the eligibility criteria set forth in this ordinance.~~

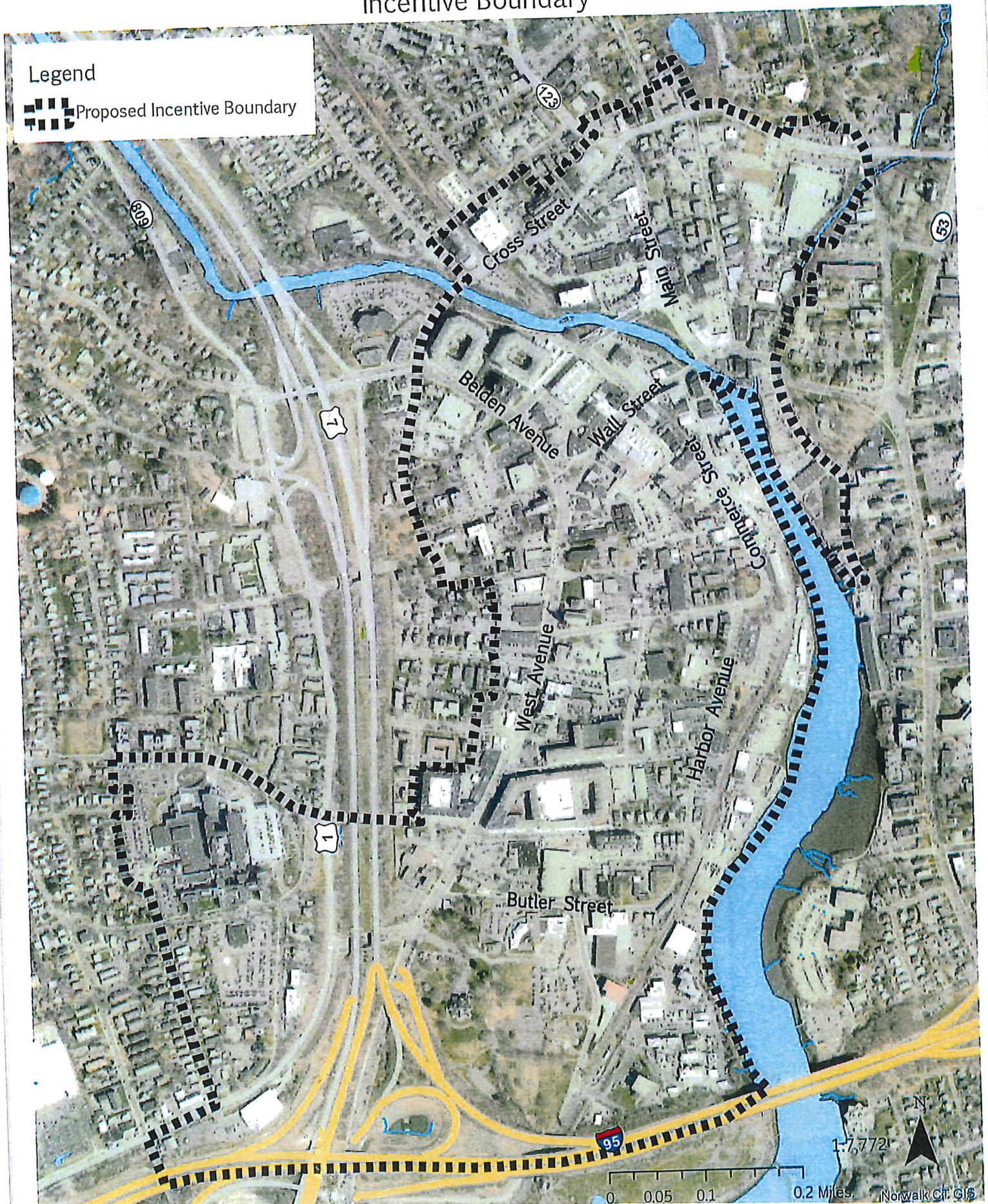
- ~~(b)~~(c) Upon receipt of a complete application, the Chief of Economic and Community Development shall, within thirty (30) days, make a written determination as to whether the application meets the eligibility criteria set forth in this ordinance. Upon a determination that the application meets such criteria, he or she shall forward to the Planning Committee of the Common Council the application, the Municipal Impact Analysis, and such determination.
- ~~(c)~~(d) The Planning Committee, upon receipt of the above information from the Chief of Economic and Community Development, shall seek written comment on the application from the Chief of Finance, Chief of Operations, the Executive Director of the Redevelopment Agency, and the Board of Estimate and Taxation (BET). If any of the above does not provide comments within forty five (45) days of the date of request for same, the application shall advance for further review by the Planning Committee noting lack of said comment.
- ~~(d)~~(e) The Planning Committee shall make the application and the materials provided in subsections (b) and (c) of this Section 99-7 available to the public for a forty-five (45) day public comment period. The Planning Committee shall hold a properly noticed public hearing on the application at its first regular meeting following the conclusion of the forty-five (45) day public comment period. At any point after such public hearing, the Planning Committee may in its discretion determine to advance the application to the Common Council.
- ~~(e)~~(f) The Final Tax Agreement must be executed by ~~the City within ninety (90) days all parties and effective within three (3) months~~ following the date of approval of the application by the Common Council. ~~The Applicant must execute the Final Tax Agreement within thirty (30) days after the City executes it.~~
- ~~(f)~~(g) If the application is approved by the Common Council, the tax incentives shall be effective in the first fiscal year following the issuance of a Certificate of Occupancy for the property that is the subject of the Final Tax Agreement.
- ~~(g)~~(h) Approved Applicants must commence construction of the proposed project within six (6) months following the date of execution of the Final Tax Agreement.
- ~~(h)~~(i) Approved Applicants must complete the proposed project, as evidenced by receipt of a Certificate of Occupancy, within thirty-six (36) months following the date of execution of the Final Tax Agreement.
- ~~(i)~~(j) ~~The Applicant has a continuing duty to disclose all applications for, or approvals of, other tax incentives/benefits that have occurred during the term of the Final Tax Agreement within sixty-ten (60) business days of submission of such application or receipt of approval. If the Applicant applies for or is approved for any other tax incentives/benefits during the term of the Final Tax Agreement, then an updated Municipal Impact Analysis must~~ shall be completed within thirty (30) days of disclosure of such application or approval. The Chief of Economic and Community Development shall have the discretion to complete an updated Municipal Impact Analysis or to transfer the responsibility to complete it to the Applicant. If the Applicant is required to complete an updated Municipal Impact Analysis, then

consistent with Section 99-7(a), it must be completed by an independent third party.

§ 99-8. Post-Award Compliance

Should the Applicant: (a) relocate its business from Norwalk; (b) become non-compliant with the provisions of this ordinance, including, without limitation, subsections 99-6(b) or (c); (c) declare bankruptcy, **become insolvent or dissolve**; (d) substantially reduce its operations on the subject property during the term of the Final Tax Agreement, with “substantially reduced operations” meaning for purposes of this ordinance, among other things, a reduction in square feet occupied within the project by more than 20%, a reduction in workforce by more than 20%, a failure to construct upon additional phases of construction, and/or sale or lease of some or all of the property subject to the Final Tax Agreement; **(e) apply for any other tax incentives/benefits during the term of the Final Tax Agreement** and/or **(ef)** in any other way fail to comply with the Final Tax Agreement, this ordinance, and/or Connecticut General Statutes Sections 12-65b and 12-65h, the Final Tax Agreement shall be deemed breached and may be terminated by the Common Council. In the event of such action by the Common Council, the private party(s) to the Final Tax Agreement shall be required to pay all assessments and fees that were abated under such agreement.

Exhibit A: Wall Street - West Avenue Proposed Incentive Boundary



**Draft Meeting Minutes from
the 1/15/2019 Ordinance
Committee Meeting**

**CITY OF NORWALK
ORDINANCE COMMITTEE
SPECIAL MEETING
JANUARY 15, 2019**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Doug Hempstead;
Michael Corsello; Chris Yerinides; Beth Siegelbaum

STAFF: Attorney Brian Candela, Corporation Counsel

OTHERS: Tim Sheehan, Executive Director, Redevelopment Agency;
Michael Church, Chair, Board of Ethics; Kara Murphy, Board of
Ethics; Haroldo Williams, Board of Ethics; Lori Torrano, Board of
Ethics

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:02PM.

2. PUBLIC HEARING (possible action on):

There was no public hearing this evening.

3. PUBLIC HEARING DISCUSSION

There was no public hearing discussion this evening.

4. PUBLIC COMMENT

There was no public comment this evening.

5. ACCEPTANCE OF MINUTES

DECEMBER 18, 2018- ORDINANCE COMMITTEE REGULAR MEETING

Add Ms. Siegelbaum to the attendance.

**** MR. YERINIDES MOVED TO APPROVE THE MINUTES AS AMENDED.
** THE MOTION PASSED WITH (5) FIVE IN FAVOR AND (1) ONE
ABSTENTION (MR. HEMPSTEAD).**

6. OLD BUSINESS

- Real Estate Tax Agreement Ordinance for Wall Street- West Avenue Neighborhood Plan Area (formally known as the Innovation District)

Mr. Sheehan provided a background on the Real Estate Agreement Ordinance for Wall Street and said the genesis of the proposed ordinance stemmed from the inequity confronted by the development community with perusing investment in Norwalk's urban core as it relates to the geography north and south of I-95. Much of the area south of I-95 is within the city's enterprise zone which by municipal ordinance fixes real estate assessments resulting from improvements to physical real estate, and the fixed assessment period is for seven years by which the increased assessment resulted from the improvement is phased in according to a schedule and north of I-95 no such tax incentive to stimulate investment in real property exists. From a planning and economic development prospective the city considers both of these areas as a central part of the city's urban environment which is seeking to better unify. Additionally, both census tracts are deemed "qualified" by the Federal Government which evidence is a high degree of economic distress with regards to poverty rate, income, unemployment and high land construction and utility costs relative to the area needed income to support development. Consideration of extending this initiative the enterprise incentive northward was originally advanced to the Planning Committee of the Common Council by the Mayor's office and then Economic Development Director. The Planning Committee had a variety of concerns with the enterprise zone structure most notably it's "as of right" provision regarding benefit. However, a majority of the Planning Commission recognized the public policy inequity and the need for

some real estate development incentive to stimulate real property investment in the I-95 north geography given its level of economic distress, and a softer more transparent means of providing the incentive setting forth the condition of “but for clause” to ensure that the incentive was applied only to projects that would be economically infeasible without such support, and were consistent with the municipal planning for the area. The Planning Committee advanced the ordinance to the Ordinance Committee as a working draft last spring and the Ordinance Committee has fully considered that which was advanced by the Planning Committee at a number of the committee meetings and two public hearings. Working through its Chair, members and comments from the public the committee has made proposed modifications to the draft ordinance over the past few months which are the subject of this evening’s review.

Mr. Sheehan reviewed the changes that have been made to the proposed ordinance and said the incentive now applies to improvements equaling 100% of the taxable evaluation of the excluding land, and the incentive may not exceed 50% of the taxable increment realized by the improvement and the incentive is to be applied only to improvements that are contusive to attracting industries that are growing or mature and are the attraction and retention priorities as determined by the improved market capability study. The city must collect all current and existing taxes on the property and 50% of the taxable increment associated with the improvement. The maximum amount of the tax incentive available under the ordinance is reduced to \$10 million dollars, and some new definitions were introduced into the ordinance and eligible uses were expanded to be consistent with the newly proposed zoning requirements for the area. Projects are ineligible if they obtained a building permit before January 1, 2019, had passed debt to the city totaling \$5,000 or more for one year and within five years of filing an application, had two or more gross violations of the Norwalk City Code within two years of applying. The submitted application must have evidence via a municipal impact analysis of positive financial impact to the city and the project must have evidence the “but for” the incentive the project is not economically feasible. The applications are now to be reviewed by the Chief of Economic and Community Development and applications with investments below \$50,000 the Chief of Economic and Community Development can under the discretion do that such analysis internally and there is a 45 day public comment period on all applications after which there is a public hearing to be held by the Planning Commission. The agreement must be executed within three months of the approval date and construction must commence within six months and be completed within 36 months. The intent of the modifications’ is to further ensure that the use of the proposed incentive tool by the city’s Economic Development professionals and the Common Council is aligned with the area’s economic

objectives embraced by public transparency and rigorous evaluation and apply to improvements that advance broad based economic opportunity.

Mr. Corsello said in the draft the fixed assessment period is for seven years and asked what the time period was in the original draft. It was also for the seven year provision. Mr. Corsello asked if there was a provision for extensions. Mr. Sheehan said under the enterprise zone there is a provision to extend which is through an application process that comes through the Redevelopment Agency and is approved by the Common Council and could go up to 10 years and the intent of the newly drafted proposed language is to have seven years as the maximum that they could get.

Mr. Hempstead said that he does not think that residential should be incentivized.

Mr. Hempstead asked under the eligible land uses if there is an exclusion if any of the institutions are allowed other tax breaks. Mr. Sheehan said there is not in the current language. Mr. Corsello said if he were in the decision making process and learned that someone was getting other tax incentives he would be disinclined to allow them to take advantage of this program. Mr. Hempstead said that there should be some protective language that provides the ability to exclude someone if they are receiving other tax benefits. Mr. Livingston said his concern is that there is a blanket provision and suggested including the language that eligible applicant shall not apply for any other municipal tax incentive.

Mr. Hempstead asked how the 50% in was arrived in the language that the city must collect all current and existing taxes on the property and 50% of the taxable increment associated with the improvement. Mr. Sheehan said that it is a maximum is 50%.

Mr. Livingston suggested that language be included that covers if the applicant declares bankruptcy or the business entity is dissolved to which it was granted they would no longer be eligible.

Mr. Livingston asked if the uses conform to the proposed zoning laws. Mr. Sheehan said "yes".

Mr. Hempstead asked after the city signs off on the agreement when does the applicant have to have it signed by. Mr. Sheehan said immediately upon the city being ready to have the agreement signed. Mr. Hempstead the language include that all parties must have a final signature within six months of the approval from the city. Mr. Livingston suggested the language state that it must be signed 30

days after the city signs and that the final tax agreement must be signed by all parties within 90 days of approval by the Common Council.

Mr. Yerindes said that there can potentially be new members on the Common Council every two years and asked if there any long term analysis. Mr. Sheehan said there should be three points that has some longevity to them and that one is the POCD, the Redevelopment plan and there is also a reference to the area market study.

Mr. Yerindes said he wants to be sure that people are not going to be pushed out of the area that have been there and asked if there is anything they can do to protect a percentage of residential affordable housing. Mr. Sheehan said that the Redevelopment Plan itself deals with the affordable housing issues for the area.

A letter was submitted into the record from Belpointe Capital by their Attorney.

**** MR. LIVINGSTON MOVED TO SEND THE PROPOSED ORDINANCE WITH THE CHANGES THAT WERE DISCUSSED TO PUBLIC HEARING ON FEBRUARY 19, 2019, AT 7:00PM.**

**** THE MOTION PASSED UNANIMOUSLY.**

- Code of Ethics and Citizen's Guide to the Code of Ethics

Mr. Corsello said he along with the committee recognizes that a lot of work was put into the changes and he thanked the Ethics Board for all of their work.

The committee reviewed each section including the Financial Benefit, Hearing Board, Immediate Family, Investigating Panel, Prohibited Representation, Prohibited uses of City property and Facilities, Prohibited use of Influence and Information, Prohibited gifts, Specific violations, Negotiation of future employment, Subsequent employment, and annual report sections as well as the Guide to the Code of Ethics and discussed their recommended changes. Mr. Hempstead suggested looking at the language for HUD as a reference. Mr. Williams also recommended looking at the State of Connecticut Code of Ethics. Mr. Corsello asked where the Board of Ethics had gotten the changed language from. Attorney Candela said that they had gone through the entire code and then he had gone through their changes and he made some recommendations and had used Stamford as an example and the changes were very minor.

Ms. Murphy said that one of the concerns that they have is that no one has been trained on the Board of Ethics and once the language is finalized The Board of Ethics would like to schedule training. Ms. Melendez also suggested that a workshop be held for incoming Common Council members.

Ms. Murphy said that there is a proposed Bill 5220 pending that may come up at the General Assembly this year and that the language has not yet been drafted and that the proposed Bill is an act establishing a right to appeal the municipal decision of a municipal Ethics Board to the Superior Court under the Uniform Administrative Procedures Act.

Ms. Melendez requested that the members of the Board of Ethics to attend the Ordinance Committee meeting of March 19, 2019 at 7:00PM for further discuss the recommended changes to the Code of Ethics and the Citizen's Guide to the Code of Ethics.

7. NEW BUSINESS

There was no new business discussed this evening.

8. DISCUSSION ITEM

There was no discussion this evening.

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**

**** THE MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:20PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services

City of Norwalk
Ordinance Committee
Regular Meeting
January 15, 2019
Page 6

**Draft Meeting Minutes from
the 1/30/2019 Ordinance
Committee Special Meeting**

**CITY OF NORWALK
ORDINANCE COMMITTEE
SPECIAL MEETING
JANUARY 30, 2019**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Doug Hempstead; Chris Yerinides; Beth Siegelbaum; Colin Hosten; Ernie Dumas

STAFF: Attorney Brian Candela, Corporation Counsel

OTHERS: Attorney Leonard Braman; Eric Zwerling (via phone); Diane Lauricella; Christopher Hickey

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:02PM.

2. PUBLIC HEARING (possible action on):

There was no public hearing held this evening.

3. PUBLIC HEARING DISCUSSION

There was no public hearing discussion this evening.

4. PUBLIC COMMENT

Attorney Braman

Attorney Braman stated that he represents the owners of Our House which is located at 112 Washington Street. He presented two proposals on how to improve the draft ordinance to make it fairer to operators and businesses particularly on Washington Street in South Norwalk as well as residents. He said the proposals include deleting or modifying the limits on sound levels inside the residence of an affected person and that the proposed draft ordinance requires a maximum 35 decibels inside the home of a Washington Street resident at night is setting up businesses on Washington Street to fail. He said that a soft whisper five feet away is 40 decibels and HVAC equipment on a residential building can be up to 50 decibels between 10:00PM and 7:00AM. so you would be requiring bars and restaurants to be much quieter than HVAC equipment. He said that it is up to the committee if they want to set such an unreasonably stringent standard for bars and restaurants and make it more difficult for businesses to open in South Norwalk, and it incumbent on this committee to try and reach a solution that is not only good for the residents but for the businesses as well. He said that they are also proposing to push back the daytime hours from 10:00PM on Thursday nights until 11:00PM to allow a little more of the economic activity that is so crucial to South Norwalk.

Christopher Hickey

Mr. Hickey stated that there are plenty of other businesses in South Norwalk in addition to Our House that will be negatively affected by the proposed ordinance. He stated that the levels are low and that there seems to be a lot of confusion as to what the current legal status is and what it will be and how it will be determined.

Diane Lauricella

Ms. Lauricella spoke on behalf of the South Norwalk Citizens for Justice and said she is representing their opinion about the ongoing concerns and interest on ending the noise ordinance. She submitted a document for the record and said that it is important to have very well laid out discussion about who is the noise control administrator and what type of training either the administrator or those who will help the administrator will receive. The current department which is the police department that is responsible for enforcement has showed up on several instances and they either did not bring the noise meter instrument or did not know how to use it. She said that the whole point of the enforcement is to be sure that there is evidence that the person that administered and enforced has certification and training in writing so they will hold up in court. She said

we also want to be sure that the attitude of the people enforcing the ordinance understand that it is a health issue and one of the attitudes that they have found leads people not to enthusiastically properly enforce the sound laws. She said that her main concern with the proposed ordinance is with the violations and penalties and that the violations should be made to be fixed in much less than 180 days and the amount is also long for a person to prepare. She said that she dismisses the statement that the people who choose to live on Washington Street and rent above the bars and restaurants should have known what they were signing up for on the grounds that we did not have a very good noise ordinance before now, and there is some incentive for this committee to look at the incentivizing noise attenuation for those that are currently in the first floor tendency. She requested that a public forum is held for the business owners because they are important for South Norwalk.

Mr. Dumas joined the meeting at 7:20PM.

5. ACCEPTANCE OF MINUTES

There was no approval of minutes this evening.

6. OLD BUSINESS

- Chapter 68, Noise Ordinance

Mr. Livingston requested that Attorney Zwerling walk the committee through the tables in the proposed ordinance and that one of the things that concerns him about the draft ordinance is that it contains a lot of subjectivity in terms of where the measurements are taken. Attorney Zwerling addressed the committee by phone on the recommendations to the Noise Ordinance and said that the proposed daytime sound level decibels for Washington Street are not draconian as has been inferred or outright stated. He explained the need to determine ambient noise so as not to hold business owners responsible for noise they're not creating. Mr. Hempstead asked if it would be possible to create levels of zones for background noise, so the noise levels could be factored in without elaborate measuring. Attorney Zwerling said that would be ill-advised and that the baseline ambient varies tremendously, from day to day, from season to season, circumstance to circumstance, and depending on things like the state of traffic, the number of pedestrians that are about or the state of the road, or if it's dry or wet and to try to get measurements that would capture every single scenario, would be expensive. He said that sound levels outside a building might not necessarily correlate to sound levels in an apartment over a bar and that it could be in compliance outside and not necessarily in compliance outside.

He said that he had taken readings on a Friday night in April and again in late July, finding that the noise level in an apartment over Our House was 37 to 47 decibels in April and in July it was 41 to 47 decibels which means that a daytime allowance of 45 decibels inside an apartment is within the threshold, and would allow almost all of the activity that he measured on a Friday night in April and on a Saturday night in July.

Mr. Livingston said that the hard part of this ordinance, it seems to me, is this Washington Street development district and the rest of it is something we can come to an agreement relatively quickly on.

Mr. Hosten said that the other issue is residential areas located near industrial zones, such as Village Creek, and that it's tricky, because you want to respect the residents, you want to respect the people doing their business, and I think it's sometimes hard to find a balance, but the ordinance as it currently exists does none of that so I think it's worth having a discussion to try and figure it out.

Attorney Zwerling said that he thinks that the proposed levels are fair, but that it's not for him to make the determination of what the jurisdictional level is for the City of Norwalk and that's for this Committee to determine. He said that if businesses in South Norwalk are concerned, they can do a calibration event, metering the levels in their facility to determine what's acceptable and installing equipment to monitor the situation as an evening wears on and then the facility knows they are comfortable, the person upstairs knows they are relatively comfortable and everybody goes on with their lives. He said that he does that all the time.

Ms. Melendez said that ambient noise is important because it's not fair to the businesses to have that included in their measurements, and that as a Committee we have to have this conversation about the importance of this, and that this is just one of many noise issues in the city, but this is particularly important because it's this mixed use zone and as our city grows and as we kind of promote these mixed use zones, and we have residents and commercial establishments together, we have to have respect for both. Or else we as a city should not do mixed use zones if we cannot do both. She said that the changes proposed need to be consistent with the Connecticut Department of Energy and Environmental Protection regulations, and there's a limit on the fines that can be issued.

Mr. Hosten said by having an ordinance doesn't mean there won't be complaints but that he likes that there's more defined mechanism for enforcement but it's not necessarily simplifying things even for the people who were affected, or for the businesses. Ms. Melendez said It's about working together not in spite of each other and that's really

what it really comes down to but we have to have our enforcers also understand that and honestly our whole community.

Ms. Melendez requested that Attorney Candela include the draft Noise Ordinance for discussion on the agenda for the next regular Ordinance Committee meeting on Feb. 19, 2019. Mr. Hosten also requested that the any written comments from Attorney Zwerling be submitted for discussion.

7. NEW BUSINESS

There was no new business discussed this evening.

8. DISCUSSION ITEM

There was no discussion this evening.

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**

**** THE MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 8:40PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services

Noise
Norwalk City Code
Chapter 68

MEMORANDUM TO FILE

Date: February 14, 2019

From: Brian Candela

RE: Noise Ordinance

- 1) Attached please find a copy of recommended changes to the Noise ordinance (Chapter 68) by Eric Zwierling (Exhibit A).
- 2) Attached please find a copy of the current Noise ordinance (Chapter 68) (Exhibit B).
- 3) Mr. Zwierling's written responses to comments received by the Ordinance Committee at the January 30, 2019 special meeting (Exhibit C).

Exhibit A

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

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.

§ 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 an authorized enforcement agency that he or 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 NOISE SOUND or BACKGROUND NOISE

~~Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.~~ 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,^[1] 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

A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB. SPL (sound pressure level) is defined as:

$$SPL = 20 \log \frac{P}{P_0} \text{ in dB}$$

Where

$$P_0 = 0.0002 \text{ microbar}$$

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.

EXTRANEIOUS 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 NOISE-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, Impulse or Peak.

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 LEVEL

~~The sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The level so read is designated "dB(A)" or "dBA."~~

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

~~E~~That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way: 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 [(e.g. camp ground)];

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.

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 designated "dB(A)" or "dBA."

SOUND LEVEL METER

An instrument used to take sound level measurements and which should conform, as a minimum, to ~~the operational specifications of~~ the American National Standards Institute "for Specifications for Sound Level Meters" S1.4-1971 (Type S2A):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 (20×10^{-6} Newtons/meter²), 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 Noise-Sound level measurement procedures and calculation of corrected source sound level.

For the purpose of determining noise-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 ~~instruments used to determine sound level measurements shall conform to the sound level meters as~~ definitions ~~ofed by~~ 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..
- DE. The general steps listed below shall be followed when ~~preparing to take~~conducting sound level measurements:
- ~~(1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.~~
 - (12) A field calibration check of ~~the~~the sound level meter shall be ~~calibrated-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.
 - (32) 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.
 - (43) 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.
 - (54) Unless otherwise specified in this chapter, sound level ~~M~~measurements or observations shall be ~~conducted~~taken 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, ~~a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or ground of contiguous parcels under the same ownership as indicated by public land records.~~
 - (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 can not 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.

~~D. 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.~~

§ 68-5 Noise-Sound level limitss.

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 ¹ Day Time	Residential Night Time	Commercial 24 hours	Industrial 24 hours
OUTDOORS			
55	45	65	70
INDOORS ³			
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 pressure 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 dB(A)		
		At a Distance of 10 Feet from the Facility ¹	Property Line of Affected Person	Inside Residence of Affected Person
Washington Street Development District (WSDD)	Day ²	75	65	45
	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 10:00 p.m. Sunday through Thursday. On Friday, Saturday and the night before federal and state holiday the day time limits are extended up to 1:00 a.m.

A. ~~It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this chapter.~~

B. ~~Noise level standards.~~

(1) ~~No person in a residential zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:~~

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential	
			(day)	(night)
Residential	62 dBA's	55 dBA's	55 dBA's	45 dBA's

(2) ~~No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:~~

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential	
			(day)	(night)
Commercial	62 dBA's	62 dBA's	55 dBA's	45 dBA's

(3) ~~No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:~~

Receptor's Zone				
Emitter's Zone	Industrial	Commercial	Residential	
			(day)	(night)
Industrial	70 dBA's	66 dBA's	61 dBA's	51 dBA's

BC. ~~High background noise levels and impulse noise.~~

(1) ~~In those individual cases where the background noise levels caused by sources not subject to this chapter 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 levels by five dBA's, provided that no source subject to the provisions of this chapter shall emit noise in excess of 80 dBA's at any time, and provided that this section~~

~~does not decrease the permissible levels of other sections of this chapter.~~

~~(2) No person shall cause or allow the emission of impulse noise in excess of 80 dB's peak sound pressure level during the nighttime to any residential noise zone.~~

~~(3) No person shall cause or allow the emission of impulse noise in excess of 100 dB's peak sound pressure level at any time to any zone.~~

D. 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.

~~(56) ———Agricultural activities, when all internal combustion engines are equipped with a properly functioning muffler.~~

~~Farming equipment or farming activity.~~

EC. Exemptions Restricted Uses and Activities. The following shall be exempt from this chapter these regulations subject to special conditions as spelled out and to the general prohibition of § 68-6:

~~(1) Noise generated by any construction equipment which is operated during daytime hours.~~

~~(2) Noise created as a result of, or relating to, an emergency.~~

~~(31) 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 Tables I. At all other times the limits set forth in Table 2 does 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. Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises that result therefrom.~~

(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.

~~(5) Noise from demolition work conducted during daytime hours.~~

- (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 does 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 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 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) **Leaf blowers.** No person shall at any time operate a leaf blower during nighttime hours in a residential zone.
- (7) **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.
- ~~No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 68-5B or C.~~
- DE.** This section dealing with motor vehicle noise shall be enforced by the Chief of Police and/or his designated subordinates.

§ 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 Chief of Police or his designated representative 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 Chief of Police or his designated representative to perform reasonable sound testing on any device or devices, including but 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.
- A.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 Chief of Police and/or designated representative 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.
- BD. It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative free access to any premises when the Chief of Police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- CE. 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.
- DF. 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 enforcement agency 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: By a fine of one hundred dollars (\$100.00).
 - 2. Second Offense: By a fine of two hundred and fifty dollars (\$250.00).

3. *Third offense or two or more violations occurring within any six months period:* Misdemeanor of the second degree punishable by a fine of no more than \$1000.00 or a sentence of not more than sixty (60) days in jail, or both.
 4. Any Motor Vehicle found to be in violation of Sections § 68-7B or § 68-7C of this article may be subject to towing and impoundment. If the vehicle is redeemed from the auto pound within 24 hours, the redemption fee shall be seventy-five dollars (\$75.00), which is not inclusive of the fine.
 5. Each day that a violation exists shall constitute a separate violation of this Chapter.
- D. The enforcement agency 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; and
 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; and
 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 enforcement agency 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 enforcement agency, 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 enforcement agency, an extension of the compliance deadline and the enforcement agency 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 enforcement agency shall notify the violator that if s/he achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty 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 enforcement agency may seek injunctive relief and/or a penalty for a violation of this article. If the enforcement agency 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 enforcement agency 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 enforcement agency shall notify the violator that s/he will not be allowed a period of time to correct the violation before a penalty is sought, and that s/he may be liable to a civil penalties and imprisonment for that violation, and that the enforcement agency 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 civil penalty 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 arrest 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.
- ~~A. Any person who violates any provision of this chapter or any rule or regulation in force pursuant thereto shall be subject to a fine of no more than \$99, and \$250 for each subsequent offense within one year of the last offense. Each violation shall constitute a separate offense. [Amended 3-28-2017]~~
- ~~B. Action pursuant to Subsection A of this section shall not be a bar to enforcement of this chapter, rules and regulations in force pursuant thereto and orders made pursuant to this chapter, by injunction or other appropriate remedy, and the Department of Health shall have the power to institute and maintain in the name of the City of Norwalk any and all such enforcement proceedings.~~
- ME. 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 on 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 neuter 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 from its passage.

Exhibit B

City of Norwalk, CT
Thursday, November 15, 2018

Chapter 68. Noise

§ 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:

AMBIENT NOISE or BACKGROUND NOISE

Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

COMMERCIAL ZONE

All commercial districts, business districts, as defined in the Zoning Regulations of the City of Norwalk,^[1] 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.

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

A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB. SPL (sound pressure level) is defined as:

$$\text{SPL} = 20 \log \frac{P}{P_0} \text{ in dB}$$

Where

$$P_0 = 0.0002 \text{ microbar}$$

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 to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

HEALTH BOARD

As defined in Chapter 57 in the City Code.

IMPULSE NOISE

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

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.

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.

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 LEVEL

The sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The level so read is designated "dB(A)" or "dBA."

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.

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

That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

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 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.

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 METER

An instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4-1971 (Type S2A).

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 (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

[1] *Editor's Note: See Ch. 118, Zoning.*

§ 68-4. Noise level measurement procedures.

For the purpose of determining noise 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. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.
- C. The general steps listed below shall be followed when preparing to take sound level measurements:
- (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
 - (2) The sound level meter shall be calibrated before and after each set of measurements.
 - (3) 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.
 - (4) 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.
 - (5) Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or ground of contiguous parcels under the same ownership as indicated by public land records.
- D. 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.

§ 68-5. Noise levels.

- A. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this chapter.
- B. Noise level standards.

- (1) No person in a residential zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone		Residential	
	Industrial	Commercial	(day)	(night)
Residential	62 dBAs	55 dBAs	55 dBAs	45 dBAs

- (2) No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone		Residential	
	Industrial	Commercial	(day)	(night)
Commercial	62 dBAs	62 dBAs	55 dBAs	45 dBAs

- (3) No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone		Residential	
	Industrial	Commercial	(day)	(night)

Receptor's Zone

Emitter's Zone	Residential			
	Industrial	Commercial	(day)	(night)
Industrial	70 dBAs	66 dBAs	61 dBAs	51 dBAs

C. High background noise levels and impulse noise.

- (1) In those individual cases where the background noise levels caused by sources not subject to this chapter 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 levels by five dBA's, provided that no source subject to the provisions of this chapter shall emit noise in excess of 80 dBA's at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter.
- (2) No person shall cause or allow the emission of impulse noise in excess of 80 dB's peak sound pressure level during the nighttime to any residential noise zone.
- (3) No person shall cause or allow the emission of impulse noise in excess of 100 dB's peak sound pressure level at any time to any zone.

D. 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.
- (5) Farming equipment or farming activity.

E. Exemptions. The following shall be exempt from this chapter these regulations subject to special conditions as spelled out and to the general prohibition of § 68-6:

- (1) Noise generated by any construction equipment which is operated during daytime hours.
- (2) Noise created as a result of, or relating to, an emergency.
- (3) Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises that result therefrom.
- (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.
- (5) Noise from demolition work conducted during daytime hours.
- (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.

§ 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 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 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) Leaf blowers. No person shall at any time operate a leaf blower during nighttime hours in a residential zone.
 - (7) 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. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 68-5B or C.
- C. This section dealing with motor vehicle noise shall be enforced by the Chief of Police and/or his designated subordinates.

§ 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.

§ 68-9. Inspections.

- A. For the purpose of determining compliance with the provisions of this chapter, the Chief of Police or his designated representative 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. 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 Chief of Police and/or designated representative 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.
- B. It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative free access to any premises when the Chief of Police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- C. 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.
- D. 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. Any person who violates any provision of this chapter or any rule or regulation in force pursuant thereto shall be subject to a fine of no more than \$99, and \$250 for each subsequent offense within one year of the last offense. Each violation shall constitute a separate offense.
[Amended 3-28-2017]

- B. Action pursuant to Subsection A of this section shall not be a bar to enforcement of this chapter, rules and regulations in force pursuant thereto and orders made pursuant to this chapter, by injunction or other appropriate remedy, and the Department of Health shall have the power to institute and maintain in the name of the City of Norwalk any and all such enforcement proceedings.
- C. 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 on 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 neuter 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 from its passage.

Exhibit C

THE NOISE CONSULTANCY, LLC

309 VAN NESTE ROAD
FLEMINGTON, NEW JERSEY 08822



THE NOISE CONSULTANCY

(908) 237-0298

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SENT VIA EMAIL

February 12, 2019

Brian Candela
Assistant Corporation Counsel
City of Norwalk
125 East Avenue
Norwalk, CT 06851

Re: Chapter 68 – Noise
Noise Ordinance Committee
Response to Public Comments

Dear Mr. Candela,

At your request, and that of the Noise Ordinance Committee, I have prepared a written response to the following comments received by the Committee:

- 1) Vernon Howard's December 3, 2018 email
- 2) Diane Lauricella's January 30, 2019 amendments to the noise ordinance
- 3) Attorney Braman's January 28, 2019 letter concerning proposed amendments to the noise ordinance

Vernon Howard
December 3, 2018 email

Comment:

1. I'd like to see something about maximum low frequency limits (sub-sonic bass). One the biggest issues we had and still do from time to time is the vibration. Earplugs, brown/white noise cannot mask that because its felt and reverberates through everything around you and is very disruptive while trying to sleep. A business could essentially turn down their mid and high frequencies and still be very disruptive at the low frequency alone.

Response:

The code amendments as proposed are only based upon A-weighted measurements, and they are somewhat insensitive to highly-amplified low frequency. Mr. Vernon has a point that a facility could turn down their high and mid frequencies to remain in compliance with a dBA-denominated standard, and still be disruptive at the low frequencies alone, if they then subsequently increased the intensity at those low frequencies. That said, the quality of the music resulting from such a manipulation of the equalizer might well be unappealing to patrons, but that is frankly a supposition.

Anecdotally, I have heard of such frequency manipulation for regulatory compliance purposes, but I have not independently verified a case.

While it is my opinion that it is probably unnecessary, it would not be unreasonable to include C-scale limits in the code as well (which are much more sensitive to low frequencies), at a level that is 20 dB above the A-scale limits¹. As such, in Table 3's Column #3, the permissible interior limits would be

daytime: 45 dBA, 65dBC
night time 35 dBA, 55 dBC

For comparative purposes, it should be noted that these interior daytime permissible limits are slightly more permissive than those for commercial music in New York City (§ 24-231) which are 42 dBA, and essentially 62 dBC.

Measurements were conducted on Friday April 20, 2018 and Saturday July 28, 2018 within two residential units (#203 and #204) on the second floor above "Our House". These measurements demonstrated that at the proposed daytime limits (45 dBA, and possibly 65 dBC), music was quite audible and songs and lyrics were intermittently identifiable, but the levels were characterized by the residents as "acceptable" for weekend evenings. The facility was operating apparently normally, demonstrating that such levels are not inconsistent with facility operations. (There is extensive further discussion. See page 4 below).

Residents of both units stated that there had been times when the sound levels were much more intense (louder) to the point that structure-borne vibrations had knocked items off shelves and pictures off the walls.

Comment:

1. I disagree with Patrick that Thursday night should be treated as part of the weekend noise time limits. Friday is still a work day for most people.

Response:

This is a political not technical issue, to be decided by the Committee.

¹ When measurements are conducted of highly amplified music with a significant low-frequency component, the A-weighted sound levels are usually about 20 decibels lower than the C-weighted sound levels. This was again confirmed during the measurements I conducted in the residential units above Our House.

Leonard Braman, Esq.
Wofsey Rosen
Our House Counsel
January 28, 2019 letter

Point: “Our House proposes two specific changes to the current draft ordinance: (1) eliminating or modifying the problematic limits on sound levels "Inside Residence of Affected Person" in Table 3;” “Each of these three different requirements is seeking to regulate a single sound source; if that sound source satisfies the requirements of the first two columns of Table 3, it should be considered in compliance with the ordinance.”

Response: Measurements inside a residence

There are three separate sound level limits set in Table 3, measured in three different locations: at the curb in front of a facility, at the property line of a complainant, and in the residence of a complainant. The sound levels at those three locations are not necessarily correlated, especially those measured outside a facility and those measured inside the same building above the facility. A facility with all doors closed could easily meet the permissible limits in Columns 1 and 2 (in the street) and significantly exceed the limits in Column 3 (upstairs). If a source and receptor are in the same building, there is no way to adequately protect that receptor other than an interior sound level limit.

Point: “Our research has revealed no noise ordinance - let alone one in Connecticut - that has three different sets of requirements for a single source.”

Response: In the Wofsey Rosen letter, Exhibit 3 was a link to one of the New Jersey Department of Environmental Protection’s webpages dealing with noise. Had they followed the links to the Model Local Noise Control Ordinance promulgated by the DEP for adoption by local municipalities they would have found just such a code. Noise from a sound production device, such as a speaker in an entertainment facility, must meet an A-scale limit at the property line of an affected person (say across the street), and would in fact be subject to intra-building limits on both the A-scale and C-scale, should the facility and residential receptor be in the same building. That code has been adopted by numerous jurisdictions in New Jersey, including Hoboken, which has a nightlife scene substantially more active than Norwalk.

In New York City, there are 4 separate limits that apply to commercial music, an A-scale limit outdoors, and indoors limits apply on the A-scale, C-scale and Octave Bands.

Point: “(T)he third category, "Inside Residence of Affected Person," conflicts with the remainder of Table 3, is far too restrictive, and should be removed.”

Response:

Daytime limit 45 dBA (as initially proposed)

Many of the comments on the Wofsey Rosen letter are addressing the 35 dBA limit, which is the night time limit, applied after 1:00 AM on weekend nights. Prior to that hour, the limit that applies of 45 dBA, which is consistent with measurements conducted when the facility was operating normally, and at levels deemed “acceptable” by the residential occupants on the second floor:

- On Saturday July 28 at 11 PM, I measured 41-47 dBA
- On Friday April 20 at midnight, I measured 37-47

In 2017 a report entitled “Room 112 Sound Study” was submitted to Pyramid Real Estate Group, in which measurements were conducted inside the bar as well as inside the residence on the second floor.

- Room 112 Study – 49 dBA at “Peak Hours”

Based on this data, a limit of 45 dBA, during the daytime, as initially proposed, is reasonable and would not prove disruptive to the operations of the bar.

That said, It would also be reasonable for Norwalk to increase that limit to 50 dBA, which is slightly above the levels in the building owner’s own acoustical study of the sound levels from an active bar at “Peak Hours;” clearly they can operate at that level.

It is also consistent with the proposed limits in Table 2:

Residential, Day Time, Indoors [45 dBA] +5 (within a commercial zone) = 50 dBA

If the limit of 50 dBA daytime is preferred, a corresponding limit of 70 dBC should also be adopted.

On further reflection and analysis, these are the daytime limits I now support for Table 3, Column 3, so long as those limits are strictly and regularly enforced. These levels represent a concession by the receptors that they live in the WSDD, but are reasonably protective. At these levels, music is quite pronounced within a residence, to the point that the volume on a television would have to be increased somewhat to hear quiet passages clearly. These limits are not restrictive on the responsible operation of a facility, yet represents the imposition of enforceable restrictions on the operations of that facility, should it get out of hand. It is a reasonable compromise between the commercial operators and residents currently sharing a common ceiling/floor.

Additional measurements would allow for a correlation between the sound levels within the facility and within the residences on both the A-scale and C-scale, and would also determine the sound level within the facility that results in compliance in the residences.

Nighttime limit 35 dBA

On Saturday July 28, I measured 36 dBA in a lull between songs in the residential bedroom, with all the patron chatter and activity on Washington Street.

This is the sound level in the second floor residences if the music is either off or very low, based upon an extremely limited sampling. It is for the City to decide if they want the music to end at 1 a.m. or if there is some other goal they want to pursue (e.g., music at some low, but not inaudible

level. I note here, however, that rhythmic bass may be disruptive to sleep even if it is slightly above the threshold of audibility, raising the question - When should it all be over?). Additional measurements would help develop a more complete analysis of the late-night ambient sound levels within these dwellings.

Point: "HVAC equipment can be as loud as 50 dBA between 10pm and 7am. (Draft § 68-5(C)(II).) In other words, the current draft ordinance would require bars and restaurants in the WSDD to be 15 dBA softer than upstairs residents' own air conditioners. These examples demonstrate that the Inside Residence standards in the current draft are far too stringent - a concern expressed at the last hearing not only by business owners but by City officials as well."

Response: The letter correctly points out that the draft ordinance establishes a permissible limit of 50 dBA for residential HVAC equipment, but that is to be measured outdoors, not indoors as is column 3 of Table 3. That's a very important distinction, because the average house attenuates sound by 15 dB from the outside to the inside (with windows partially open; with them closed the attenuation is approximately 25 dB). Connecticut DEEP has established a nighttime outdoor limit of 45 dBA for a residential receptor in a residential or commercial zone. Thus, it can be inferred that the CT DEEP's interior goal is 30 dBA for these residential receptors.

Point: "More importantly for the present discussion, however, the Fort Lauderdale ordinance also provides an indoor sound level limit of 55 dBA after 10pm for amplified sound for "mixed-use" areas (comparable to the WSDD). (Id § 17-7(d).)"

Response: This is a misquoting of Fort Lauderdale's Special Entertainment Overlay District, as can be seen from the letter's exhibit 2. The levels in Fort Lauderdale's 17-7(d) are on the C-scale, not the A-scale, and that makes a world of difference. When you're measuring bass-rich music through a wall, the difference between an A-scale reading and a C-scale reading is usually about 20 decibels. So, 55 dBC is roughly equivalent to 35 dBA, which is what we're proposing here. I would also note that in the rest of Fort Lauderdale the night time limit within a residence is 35 dBA (their Table 1)

Point: Mr. Zwirling also noted that the State of New Jersey, where his practice is based, has across-the-board limits statewide of 65 dBA during the day and 50 dBA at night (after 10 p.m.). This is additional proof that nighttime decibel level limits of 50 dBA or more are clearly not unreasonable.

Response: The limits being quoted here are applied outdoors at the property line of an affected person. The night time standard of 50 dBA in New Jersey is meant to yield an interior sound level of 35 dBA after the sound is attenuated through the structure of the residence. This is the limit proposed indoors, at night, in column 3, Table 3. It is reiterated that the CT DEEP night time outdoor limit for residential receptors is 45 dBA.

High ambient noise:

I do want to make a point regarding elevated ambient sound levels, whether from traffic outside or air handling units (assuming that's not what's being investigated). Regardless of whatever limit is

applied in the code, an investigator has to measure the ambient sound levels and subtract that from the levels measured when the source is operating to arrive at the corrected source sound level alone. Nothing can be found in violation unless the corrected source sound level exceeds both the permissible limit and the ambient sound levels at that time and place. That's all specifically laid out in section 68-4.

Diane Lauricella
Environmental Adviser
South Norwalk Citizens for Justice
January 30, 2019 letter

68-3: Definitions.

I like many of Mr. Zwierling's changes because they clarify and show the importance of having an organized process.

Q: Noise Control Administrator: Please clarify the actual process, somewhere in this document, for variance decisions and training of whomever you determine will enforce this ordinance.

A: The variance provision within the code is unchanged in the proposed amendments. This variance provision is generally as specific as I have seen, many of which provide less guidance in the criteria to be considered in the issuance of a variance. The Director of Health is to take into consideration all of the listed criteria in arriving at the decision of whether to issue the variance and further there are criteria for determining whether to revoke or modify an extant variance. Without providing a weighted matrix for making those multifactorial decisions, I am unsure how to make this more specific.

That said, I would be pleased to review specific proposed language if the commenter can provide such, in this matter, or any others. The variance provision (§68-11) was clearly derived from Connecticut Title 22a-69-7.1, although some of the detail was omitted. It is respectfully suggested that the commenter review the state regulation and see if the additional detail therein would meet her needs.

The requirement for training investigators who will perform sound measurements is found at §68-4.A. This sentence is unchanged in the proposed amendment process. Additionally it could specify that the training could be conducted through a process "approved by the Noise Control Administrator", which allows flexibility for the Administrator; however, it doesn't add the specificity requested by the commenter.

New Jersey's state noise code requires enforcement personnel certify and recertify through courses taught by the Rutgers University Department of Environmental Sciences (at NJAC 7:29-2.11 Qualifications of enforcement personnel). I teach those courses in my capacity as the Director of the Rutgers Noise Technical Assistance Center, and have taught the course all across the United States and internationally. Norwalk has requested a formal proposal for such certification training and subsequent recertification training. Certainly, the City can specify the requirements for training in the code, but that's for them to decide, not me.

It is important to note here, somewhere, that §68-4.A requires training only for those provisions enforced through the use of a sound level meter. Any officer in Norwalk can enforce those provisions not requiring a meter.

Q: Sound Level Meter Calibrator: Please consider adding mention about personnel who conduct calibration are trained and certified, if applicable.

A: Field calibration checks of the meter are integral to the measurement process. Any investigators conducting measurements are required to be trained.

Q: Please add subsections that address the written recording of the noise levels, including calibration, ambient and actual readings so that there is evidence for possible court case. In addition, a (written) sketch of the emitter and receptor should be included in the case file.

A: The certification course I teach addresses these points extensively. Its entire orientation is towards the collection of data to determine the regulatory compliance status of a sound source, in a technically and legally valid manner, the documentation of the data collected, and the presentation of that data in court if the source is found to be out of compliance. In fact, the exit exam is a field data report form detailing the investigation of a mock enforcement situation. It is graded for completeness, and includes every point raised in the question. A completed sample form is appended.

It is not unreasonable to include such a section in the code specifying the exact requirements for the collection of field data; New Jersey's state code does.

While not absolutely necessary, here is a section that would meet the commenter's request:

Reporting requirements

- (a) Reports shall be provided on forms approved by the Noise Control Administrator.
- (b) The report for each test shall include:
 - 1. The date and day of the week on which the test is made;
 - 2. The time of measurements, clearly indicating A.M. or P.M.;
 - 3. The times of calibration of the measuring devices while on site;
 - 4. The weather conditions;
 - 5. The temperature;
 - 6. The wind speed;
 - 7. The identification of all measurement equipment by manufacturer, model number, and serial number;
 - 8. The date each piece of equipment was last recertified or recalibrated as per §68-4.C;
 - 9. The total sound level in dBA, or dBC, as appropriate for the provision being applied;
 - 10. The ambient sound level in dBA, or dBC as appropriate for the provision being applied;
 - 11. A sketch or other graphic representation of the site, not necessarily to scale, orienting the facility of interest, the points of measurement, topographic features, and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions;
 - 12. A description of the sound sources under investigation by character and location;
 - 13. A description of the ambient and extraneous sound by character and location, to the extent feasible.

While it is reasonable to include the above provision within the code, it may be best to limit its inclusion to a Standard Operating Procedure (SOP). If the provision is contained within the code, and the reporting requirements are prefaced by the words “shall include”, any omission by an investigator may be a basis for challenge, even if the omission is essentially immaterial to the validity of the investigation.

Q: Former D Exclusions (after new Table 3): (4) Warning Devices required by OSHA Please include possibility of using new backup devices that are quieter.

A: Self-adjusting backup beepers are quieter by design than traditional devices. I am unaware of other devices that are quieter (dB level) than these. The exemption could be expanded to include broadband devices (e.g., Brigade Alarm) which are noted to be less intrusive, if this what the commenter is referencing.

Q: New C 1: Does this fix the problem encountered by Lubrano Place neighbors with overnight oven motors?

A: I am unfamiliar with this specific noise source, or if it was shown to me during my tour of Norwalk, I have forgotten it. §68-5.CI addresses mobile hand-held yard work tools, and the like. It is not meant to address fixed, long-term sources such as stationary motors. Those would be subject to the limits in Table 2.

Q: New C Former 5: Want to ensure that demolition activities do not start until after 8:00 am.

A: The exemption for “(n)oise from demolition work conducted during daytime hours” was deleted because it is possibly open to an overly broad interpretation. It could be argued that the disassembly of construction debris (e.g., concrete slabs) at a site other than a construction site is demolition. I doubt this challenge would be successful, but it would be time consuming and expensive to litigate. Thus, the goal here was to remove the exemption for demolition work and rely on the exemption for construction sites at §68-6(4) which includes the demolition of a structure on that site, limited to that site.

Construction (and demolition) are prohibited at night at §68-6(4). Night is defined as 8 p.m. to 7 a.m. It is up to the City to decide if it desires to change the definition of night to include 8 a.m. or specify in §68-6(4) that construction (or demolition alone) must not start before 8 a.m. In any case, this is where the issue would be addressed.

Q: New C 8: Dumpster crash noise is a HUGE problem in the South Norwalk and Broad River area, especially any area where residents abut commercial facilities. Please consider disallowing dumpster pickup before 8 am unless a VARIANCE is obtained.

A: Noise associated with the emptying of dumpsters is subject to the sound level limits in §68-5, Table 2, and if it is impulsive, as specified in §68-5 (1)2. If the operations of a hauler exceed the limits at the property of an affected person, enforcement can be pursued. If a hauler can meet those limits, or is operating at a location where there are no “affected persons” (complainants), no enforcement will ensue from their operations.

A decision to disallow dumpster pickup prior to 8 a.m. is one that is political, not technical. The City can choose to do so. It is generally recognized that there is a tradeoff, however. Early pickup of refuse disrupts sleep but does not disrupt traffic. On the other hand, while picking up refuse after 8 a.m. may not disrupt sleep, it may disrupt traffic. This is a decision for the City to make.

Q: B 6: Consider also banning leaf blowers before 8 am and possibly all Sunday mornings. Many citizens complain, especially when an "army" of multiple landscapers handle a job.

A: In the proposed amendments, all yard maintenance equipment and home power tools may not be operated between 8 p.m and 8 a.m. at §68-5.C.(1), unless they can meet the limits in Table 2. This allows homeowners the opportunity to use the equipment in a manner or location where it does not exceed the limit at the property line of the affected person, or to use a version of the equipment that is muffled or alternatively powered (e.g., electric mower). A provision such as this is adequate for many jurisdictions, but would require measurements to prove that a device exceeded the limits prior to 8 a.m.

The City could decide that this is not restrictive enough for leaf blowers. There are jurisdictions that have put specific restrictions (bans, curfews, etc.) on these devices. The restrictions range from outright bans, to seasonal bans (e.g., only allowing their use for a several week period in the spring and again in the fall for cleanup), to restrictions on their hours of operations (as requested by the commenter). Enforcement of such a provision is simple, as observing the use of the device at a time it is prohibited is prima facie evidence of a violation and no measurements are required. The request is reasonable and could be accommodated in the code should that be the desire of the City. A more extensive ban could have economic implications that should be discussed, but that is not the request here.

Q: B: We encourage the Health Department, possibly with Mr. Zwierling's assistance, designate certain area as "Noise-sensitive", including but not limited to rowing clubs going by residential areas at early in morning, etc ..

A: Concerns about the use of electronic sound amplification devices by rowing clubs was raised during the public hearings conducted in this process. If the City desires, it can simply ban the use of electronic amplification devices for such purposes, such that the crews have to use either a non-electronic megaphone, or an FM system with a microphone/transmitter controlled by the coach, and a small receiver/speaker in each boat.

Q: 68-9: Inspections. A-F: Gender neutral language, for consistency.

A: Yes, this should be done.

Q: 68-10: Violations and Penalties.

Please add that use of police scanner by Emitter is prohibited (otherwise, have Police and Health Department use another method of noise investigation). There was reason to believe that the wood oven company at 8 Merritt Place had a police scanner and turned off their noise emitters when Police investigated Lubrano Place citizen complaints.

A: I don't know if this prohibition can be included in a noise code, or anywhere for that matter. The Law Department will have to comment on this request. Alternative means of communications are a matter best handled in departmental policy not regulation.

Q: D2: This amount of time is too long (12 months prior) and because there has not been an effective program, please considers 30 days prior, or 60 days prior.

A: This provision establishes the duration for which a "warning" is effective, during which the next occurrence of a violation is immediately subject to the imposition of penalties. Reducing that period would make this provision less stringent, not more.

Q: E: Minor violations should be fixed in much less than 180 days! Please reduce the amount of time.

A: This provision states that "the activity or condition must be corrected and compliance achieved within 30 days or less, at the discretion of the enforcement agency, 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."

If the resolution of a noise problem is simple, the enforcement agency may specify that the Grace Period that is as short as few days. However, there are cases in which the remediation effort may take the full 6 months, or for that matter, even a year if there are significant engineering and construction requirements. I know; I was the consultant for just such a project in New Jersey, in which the remediation measures were very complex. As long as the facility is making a clear good faith effort and meeting benchmarks of progress, they should be allowed to continue in the remediation effort without incurring penalties so long as they ultimately achieve compliance within the Grace Period.

Q: Please also state that the administration of this ordinance must be funded properly in order to be administered fairly and professionally.

A: I don't see a place for this in the Code, but that's for the City to decide.

Q: J 3 and 4: Appears to be too subjective, and we must be assured that historic noise complaints from Police Dept., Health Dept. and Citizens' Service Bureau will be consolidated and available for enforcement personnel to include in their deliberations.

A: This provision is to allow for a reduction of fines if a violative facility demonstrates compliant behavior. This occurs after the grace period expires (a minor violation then becomes a major violation) or if a facility is found to have a "major" violation by virtue of being subject to an enforcement action in the preceding 12 months. If, after assessment of a fine, the facility immediately engages in successful remediation efforts, or engaged in remediation efforts prior to the end of the Grace Period that substantially lowered the sound levels, but didn't achieve full compliance, these factors can be considered in the final penalty assessment, as opposed to a facility which was completely dismissive of the process.

Explicit characterization of such compliant behavior beyond that in the proposed language would be difficult and not meaningfully more protective, and could still be considered subjective.

Q: 68-11: Variances; promulgation of regulations; contracts.
The Variance process must be devised, including the standards upon which an emitter gains said variance.

A: First, let me state that I made no proposed changes to 68-11. It is as it was. It is derived almost verbatim from Connecticut Title 22a-69-7.1, although not all provisions were adopted. As was stated above, it is respectfully suggested that the commenter review the state regulation and see if the additional detail therein would meet her needs. If not, I would imagine the Committee would consider additional comments; however, I don't know the closure date on the reception of comments.

Q: A (4): Distance to abutters at 200 Feet does not appear to be enough distance.

A: I believe that 200 feet is the standard distance for notification in land use matters, but this is not a technical question for me.

Q: A (8): Please add more certainty and less discretion to the decision about a stay.

A: This is not a technical matter. I welcome input as to how the commenter's request may be achieved, if such is the City's desire. I note that this provision is verbatim from Connecticut Title 22a-69-7.1(j) (with the substitution of "Director of Health" for "Commissioner").

Q: A (9): Need more detail so that the discretion is not as subjective.

A: This is not a technical matter. I welcome input as to how the commenter's request may be achieved, if such is the City's desire. I note that this provision is verbatim from Connecticut Title 22a-69-7.1(k) (with the substitution of "Director of Health" for "Commissioner").

Sincerely,



Eric M. Zwerling, M.S., INCE, ASA
President

NOISE MEASUREMENT REPORT

Collier County

Name/Address of Sound Source

TAMIAMI CONDOS
1142 DAVIS BLVD
NAPLES, FL

Date of Measurement 7/20/15 Day of Week MONDAY

Investigator

MANNY METERJOCKEY, CCE

Name and Title of Responsible Party if Advised of Complaint:

PERRY POOLEY, MANAGER

Description and Location of Sound Sources to be Measured, Including Operation of Facility, and if this Represents the Normal Operation of the Facility. Are the Sound Emissions: "Pure Tones" or "Non-Repetitive Impulsive"? Were Measurements Conducted Indoors? POOL PUMP RUNNING ALMOST CONTINUOUSLY, MAKING GRINDING NOISE

Zoning/Use at Location of Sound-Affected Site or Unit: GRADES VIEW RMS, 745 FOUNDERS CIRCLE, RESIDENTIAL

Complainant Statement, If Any: POOL PUMP MALFUNCTIONING, RUNS INTERMITTENTLY, BUT CAN RUN FOR HOURS AT A TIME. VERY DISTURBING, ESPECIALLY VERY EARLY & VERY LATE

Description and Location of Ambient Sounds, Fairly Constant in Nature (included in all measurements):

STEADY LIGHT TRAFFIC ON DAVIS BLVD, VENT FAN ON REAR OF JONATOLD SALADS

Description and Location of Extraneous Sounds, Intermittent in Nature, Not from Source Facility (excluded from all measurements):

LOUD VEHICLES ON DAVIS, ALL VEHICLES ON FOUNDERS, MADISON PARK & CLEMSON, PARKING LOT ACTIVITIES (VOICES, DOOR SLAMS), AIRCRAFT (NAPLES MUNICIPAL)

Description of Instrumentation: Make Model# ANSI Type Serial # Last Certified

Sound Level Meter MIN METER 1240 I 72477 2/31/15

Sound Level Calibrator MIN CAL 52B 11984 2/31/15

Wind Screen (yes/no) Y Wind Meter (y/n) Y Other -

Time of Calibration/Battery Checks (Before, After, Every Hour) 13:20 13:42

Weather Conditions: Precipitation (y/n) N Ground Wet (y/n) N Temperature: 82 °F

Wind Velocity, With Time Taken 3-4 MPH 13:21, 4-6 MPH 13:43

Measurement of Ambient Sound:

Time	Level (dBA) (dBC)	Method of Measurement (source off, etc.)	Location of Measurement/Comments
13:25	51 dBA	WALK AWAY	(B)
13:26	60 dBA	" "	(B)
13:32	(60) dBA	SOURCE OFF	(A) PUMP CYCLED OFF

Measurement of Total Sound:

Time	Level (dB) (dBC)	Corrected (Source) Level	Location of Measurement /Comments
13:22	67 dBA	67-1 = 66	(A)
13:23	68 dBA	68-1 = 67	(A)
13:24	68 dBA	68-1 = 67	(A)
13:31	67 dBA	67-1 = 66	(A)

Comments/Findings/Disposition VIOLATION FOUND. PERMISSIBLE LIMIT 60 dBA FOR RESIDENTIAL RECEPTOR

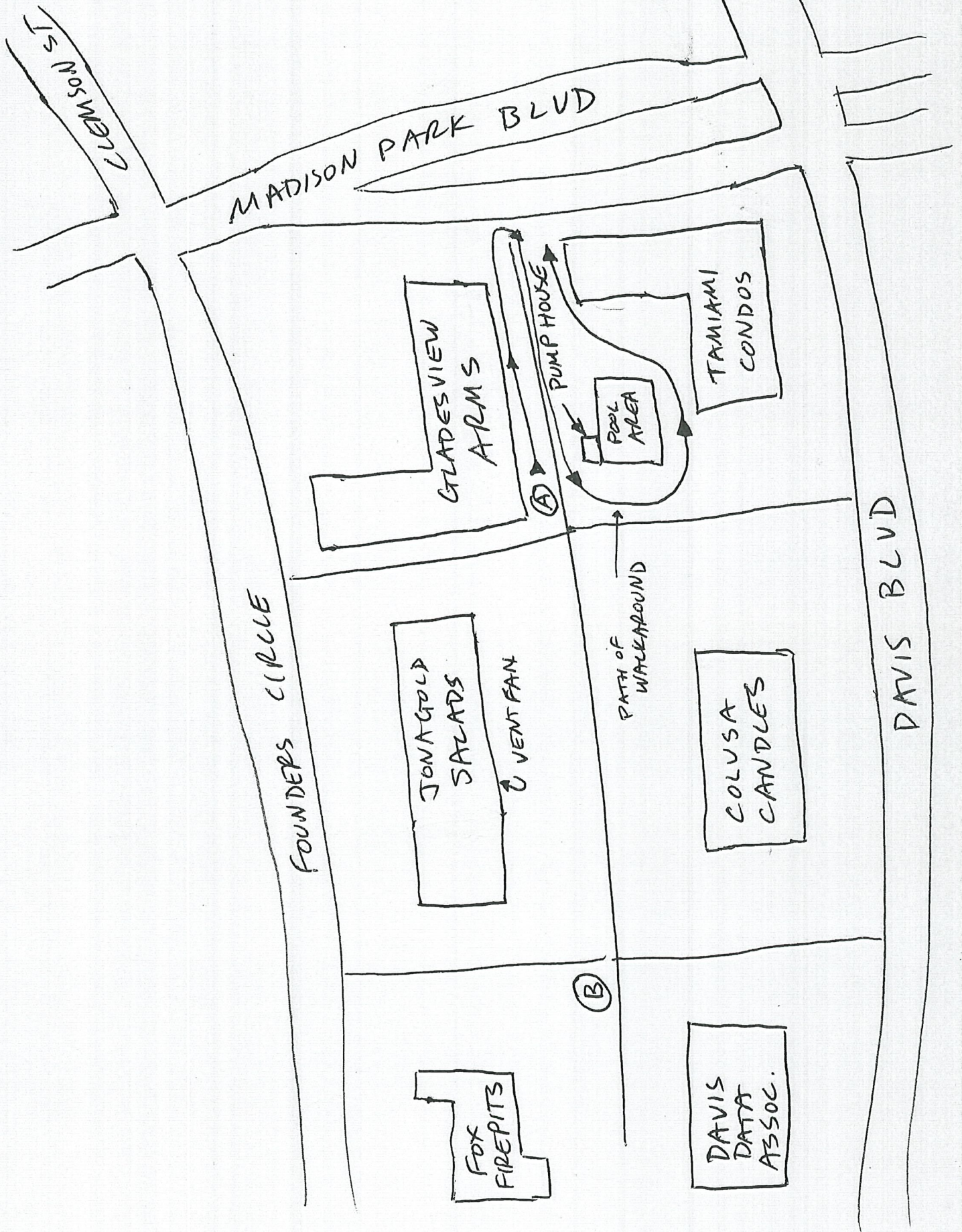
Sound Measured By:

Manny Meterjockey

Report Reviewed and Approved By (If Necessary):

Ernest Longine

INCLUDE SITE SKETCH ON REVERSE (with source, walk-around route, and exact measurement locations)



Candela, Brian

From: Vernon Howard <vern1271@gmail.com>
Sent: Monday, December 03, 2018 12:32 PM
To: Candela, Brian; Eric Swerling
Cc: Melendez, EloisaM
Subject: Comments on Noise Ordinance proposal.

Here some additional comments about the proposed noise ordinance changes...

1. I'd like to see something about maximum low frequency limits (sub-sonic bass). One the biggest issues we had and still do from time to time is the vibration. Earplugs, brown/white noise cannot mask that because its felt and reverberates through everything around you and is very disruptive while trying to sleep. A business could essentially turn down their mid and high frequencies and still be very disruptive at the low frequency alone.
2. I disagree with Patrick that Thursday night should be treated as part of the weekend noise time limits. Friday is still a work day for most people.

Kind regards,
Vernon Howard

SOUTH NORWALK CITIZENS FOR JUSTICE

To: Eloisa Melendez
Chairwoman
Ordinance Committee
Common Council

Staff Attorney Brian Candela

From: Diane Lauricella
Environmental Adviser
South Norwalk Citizens for Justice (SNC4J)

Re: Amendments to the Noise Ordinance Chapter 68

January 30, 2019

Chairwoman Melendez and Council Committee

Thank you again for hiring a noise expert to advise this Committee. There are many citizens across the City who have requested assistance for many years and will benefit by an improved process. It is hoped that after the revised ordinance has been approved, the City will hire Mr. Zwierling to train the appropriate personnel about how to administer and enforce it.

While not as popular as the Plastic Bag Ordinance, the reform of Chapter 68 will improve the quality of life for citizens across Norwalk for years to come.

In addition to my previous comments on the subject of amending the Noise Ordinance, please consider the following (I will refer by Section number since page numbers are not available):

68-3: Definitions.

I like many of Mr. Zwierling's changes because they clarify and show the importance of having an organized process.

Noise Control Administrator: Please clarify the actual process, somewhere in this document, for variance decisions and training of whomever you determine will enforce this ordinance.

Sound Level Meter Calibrator: Please consider adding mention about personnel who conduct calibration are trained and certified, if applicable.

68-4: Sound Level Measurement procedures and calculation of corrected source sound level.

Please add subsections that address the **written recording** of the noise levels, including calibration, ambient and actual readings so that there is evidence for possible court case.

In addition, a (written) sketch of the emitter and receptor should be included in the case file.

D1 and D2: Love the specificity concerning calibration and the threshold for wind speed!

Change "old" subsection "D and E" to "E and F".

68-5: Sound Level limits.

Tables 2, 3: Please ensure that training will clarify the new sound levels.

Former D Exclusions (after new Table 3): (4) Warning Devices required by OSHA Please include possibility of using new backup devices that are quieter.

New C 1: Does this fix the problem encountered by Lubrano Place neighbors with overnight oven motors?

New C Former 5: Want to ensure that demolition activities do not start until after 8:00 am.

New C 8: Dumpster crash noise is a HUGE problem in the South Norwalk and Broad River area, especially any area where residents abut commercial facilities. Please consider disallowing dumpster pickup before 8 am unless a VARIANCE is obtained.

68-6: Prohibited activities.

B 6: Consider also **banning leaf blowers before 8 am and possibly all Sunday mornings**. Many citizens complain, especially when an "army" of multiple landscapers handle a job.

68-8: Recreational Vehicles, et al.

B: We encourage the Health Department, possibly with Mr. Zwierling's assistance, designate certain area as "Noise-sensitive", including but not limited to rowing clubs going by residential areas at early in morning, etc..

C: Terrific, long-overdue for enforcement!

68-9: Inspections.

A-F: Gender neutral language, for consistency.

68-10: Violations and Penalties.

Please add that use of police scanner by Emitter is prohibited (otherwise, have Police and Health Department use another method of noise investigation). There was reason to believe that the wood oven company at 8 Merritt Place had a police scanner and turned off their noise emitters when Police investigated Lubrano Place citizen complaints.

D2: This amount of time is too long (12 months prior) and because there has not been an effective program, please considers 30 days prior, or 60 days prior.

E: Minor violations should be fixed in much less than 180 days! Please reduce the amount of time.

Please also state that the administration of this ordinance must be funded properly in order to be administered fairly and professionally.

J 3 and 4: Appears to be too subjective, and we must be assured that historic noise complaints from Police Dept., Health Dept. and Citizens' Service Bureau will be consolidated and available for enforcement personnel to include in their deliberations.

68-11: Variances; promulgation of regulations; contracts.

The Variance process must be devised, including the standards upon which an emitter gains said variance.

A (4): Distance to abutters at 200 Feet does not appear to be enough distance.

A (8): Please add more certainty and less discretion to the decision about a stay.

A (9): Need more detail so that the discretion is not as subjective.

In addition, I believe that our Planning and Zoning and Building Departments need to be engaged and receive some form of noise training so that new tenants and construction professionals are encouraged to retrofit their buildings for noise attenuation.

Please also consider a creative public education plan so that all, including businesses, are made aware of the importance of this Ordinance.

Thank you.

ABRAHAM WOFSEY 1915-1944
MICHAEL WOFSEY 1927-1951
DAVID M. ROSEN 1948-1967
JULIUS B. KURIANSKY 1952-1992
SYDNEY C. KWESKIN 1946-1998
MONROE SILVERMAN 1955-2003
SAUL KWARTIN 1951-2008
EMANUEL MARGOLIS 1966-2011

WOFSEY
ROSEN
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January 28, 2019

Via E-Mail (bcandela@norwalkct.org)

Eloisa Melendez, Chairperson
Ordinance Committee
City of Norwalk Common Council
Norwalk City Hall, Common Council Chambers 3rd Fl.
125 East Avenue
Norwalk, CT 06856

Re: Proposed Amendments to Noise Ordinance

Dear Chairperson Melendez:

My firm represents 112 Associates LLC, which owns the property at 112 Washington Street Unit F101 in Norwalk, and 112 Cafe LLC, which operates the bar Our House at that location (collectively, "Our House"). Please accept this letter as a written submission of comments from Our House concerning the draft proposed amendments to the Noise Ordinance. Our House also plans to address the Ordinance Committee at the special meeting scheduled for January 30, 2019.

We commend the Ordinance Committee for trying to address issues specific to the Washington Street Development District ("WSDD") in the Noise Ordinance. The area has long been recognized as an entertainment district offering a wide array of restaurants and night life; it is a regional draw and economic engine for the City, creating jobs, generating tax revenue, and making Norwalk an attractive place to live, work, and visit. New residents continue to move to the Washington Street area precisely because of its nightlife, not in spite of it. Thus, it is essential that the Noise Ordinance, while appropriately limiting noise in the area, also does not hamper the ability of Washington Street businesses to succeed. In this regard, as I stated at the November 28, 2018 special meeting, Our House proposes two specific changes to the current draft ordinance: **(1) eliminating or modifying the problematic limits on sound levels "Inside Residence of Affected Person" in Table 3; and (2) slightly delaying the beginning of "night" hours on Thursday nights, from 10pm to 11pm.**

EDWARD M. KWESKIN
DAVID M. COHEN
MARSHALL GOLDBERG
STEPHEN A. FINN
STEVEN D. GRUSHKIN
*STEVEN M. FREDERICK
ERIC M. HIGGINS
*JOSEPH M. PANKOWSKI, JR.
*DANIEL M. YOUNG
*WILLIAM M. DAVOREN
*KUROSH L. MARJANI
*ADAM J. BLANK
*WILLIAM M. CARELLO

*EDMUND M. REMONDINO
COUNSEL

*LEONARD M. BRAMAN
GESSI GIARRATANA
SARAH GLEASON
BRIAN KLUBERDANZ
ZACHARY J. PHILLIPPS

*ALSO NEW YORK BAR

NEW CANAAN OFFICE:
70 PINE STREET
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1. Deletion or Revision of “Inside Residence of Affected Person” Limits in Table 3

The proposed changes to the Noise Ordinance that are specific to the WSDD are illustrated in Table 3 of the current draft ordinance. The table distinguishes three different noise limits depending on the location of the sound measurement: “At a Distance of 10 Feet from the Facility,” “Property Line of Affected Person,” and “Inside Residence of Affected Person.” Our House does not take issue with the sound level limits proposed for the first two locations. However, the third category, “Inside Residence of Affected Person,” conflicts with the remainder of Table 3, is far too restrictive, and should be removed.

As was expressed by members of the Washington Street business community at the last hearing, businesses like the restaurants and bars in the WSDD need clear guidelines on sound levels that can be easily followed and enforced. The inclusion of “Inside Residence of Affected Person” is redundant of the other two categories of restrictions. Each of these three different requirements is seeking to regulate a single sound source; if that sound source satisfies the requirements of the first two columns of Table 3, it should be considered in compliance with the ordinance. Having three separate, conflicting requirements will cause confusion for businesses, residents, the public, and the police as to whether there is compliance. This confusion will lead to increased noise complaints which will require devotion of scarce law enforcement resources to address them. Our research has revealed no noise ordinance – let alone one in Connecticut – that has three different sets of requirements for a single source.

Aside from the difficulty of enforcing three different overlapping sound level limits, the proposed decibel level limits for “Inside Residence of Affected Person” in Table 3 are too restrictive, and are thus setting bars and restaurants in the WSDD up to fail. Current law allows up to 62 dBA in the mixed-use properties on Washington Street, while the draft ordinance would require a maximum of only 35 dBA starting at 10pm on weeknights. 35 dBA is an unrealistic and penalizing standard to place on bars and restaurants in the WSDD. According to federal OSHA noise level guidelines, *a soft whisper at five feet away is 40 dBA* and an “urban residence” is 50 dBA.¹ Indeed, under the current draft ordinance itself, even a residential building’s

¹ OSHA, *How Loud is Too Loud?*, <https://www.osha.gov/SLTC/noisehearingconservation/loud.html>, attached as **Exhibit 1**.

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HVAC equipment can be as loud as 50 dBA between 10pm and 7am. (Draft § 68-5(C)(11).) In other words, the current draft ordinance would require bars and restaurants in the WSDD to be 15 dBA softer than upstairs residents' own air conditioners. These examples demonstrate that the Inside Residence standards in the current draft are far too stringent – a concern expressed at the last hearing not only by business owners but by City officials as well.

The current draft's Inside Residence standards also penalize businesses based on how well or poorly insulated the surrounding residences are. This is especially relevant given that South Norwalk has many old buildings that may lack sufficient insulation. One possible solution to this issue would be to require a buffer zone of office space on second floors between ground-floor bars/restaurants and residential units above. But as Councilmember Yerinides observed at the last hearing, this is a situation that affects three different stakeholders: ground-floor business owners, upper-floor residents, and landlords. It would be unjust to place the entire burden of sound-level compliance on only one party, the businesses alone – yet that is what the current draft ordinance would do.

When asked at the last hearing whether other municipalities have noise ordinances recognizing special entertainment districts, the consultant Mr. Eric Zwirling gave the example of Fort Lauderdale, FL. Notably, Fort Lauderdale's noise ordinance provides much less stringent limits on outdoor sound levels for its "special entertainment overlay district" than the draft ordinance for Norwalk does. (See Ft. Lauderdale Ordinances § 17-7(c), http://fortlauderdale.elaws.us/code/coor_apxid115819_ch17_sec17-7, attached as **Exhibit 2**.)² More importantly for the present discussion, however, the Fort Lauderdale ordinance also provides an indoor sound level limit of **55 dBA after 10pm** for amplified sound for "mixed-use" areas (comparable to the WSDD). (*Id.* § 17-7(d).) Respectfully, that is a more appropriate compromise between the competing interests at stake than the 35 dBA in the current draft here. Mr. Zwirling also noted that the State of New Jersey, where his practice is based, has across-the-board limits statewide of 65 dBA during the day and **50 dBA at**

² Fort Lauderdale's ordinance permits the following outdoor sound-level limits in the special entertainment overlay district: (1) Monday-Thursday: 85 dBA up to 12am, 70 dBA from 12-2am, and 65 dBA from 2am-12pm; (2) Friday-Sunday: 85 dBA up to 1am, 70 dBA from 1-3am, and 65 dBA from 3am-12pm. (*See id.*)

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*night (after 10 p.m.).*³ This is additional proof that nighttime decibel level limits of 50 dBA or more are clearly not unreasonable.

Ultimately, adopting the overly restrictive “Inside Residence” requirements in the current draft ordinance would discourage bars and restaurants from opening or continuing to operate in Norwalk. This result is contrary to the intent of the proposed ordinance and not in the City’s interest. Accordingly, the “Inside Residence” limits in Table 3 should be eliminated, or at a minimum, increased by at least 15 dBA each.

2. Slight Delay in Beginning of Thursday “Night” Hours in the WSDD

Additionally, we propose a modest change to the time of day parameters in the draft ordinance. Thursday nights represent one of the strongest business opportunities for restaurants and bars in South Norwalk. We propose to push back the start of “Night” hours in the WSDD from 10pm to 11pm, in order to further promote economic success in the area.

* * *

The proposed changes to the draft ordinance that are described above would make it a more fair, equitable, workable, and enforceable set of rules for all. Without these changes, however, the proposed ordinance would be inequitable to the various bars and restaurants in South Norwalk, and would cause problems both for the City personnel attempting to enforce the ordinance and the businesses attempting to comply with it. By ensuring that the Noise Ordinance protects the interests of both businesses and residents, the Ordinance Committee can help ensure that the WSDD continues to thrive – to the benefit of businesses, residents, and the City as a whole.

Thank you for your attention to this matter.

³ See <https://www.nj.gov/dep/enforcement/noise-control.html>, attached as Exhibit 3.

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Sincerely,
WOFSEY, ROSEN, KWESKIN
& KURIANSKY, LLP

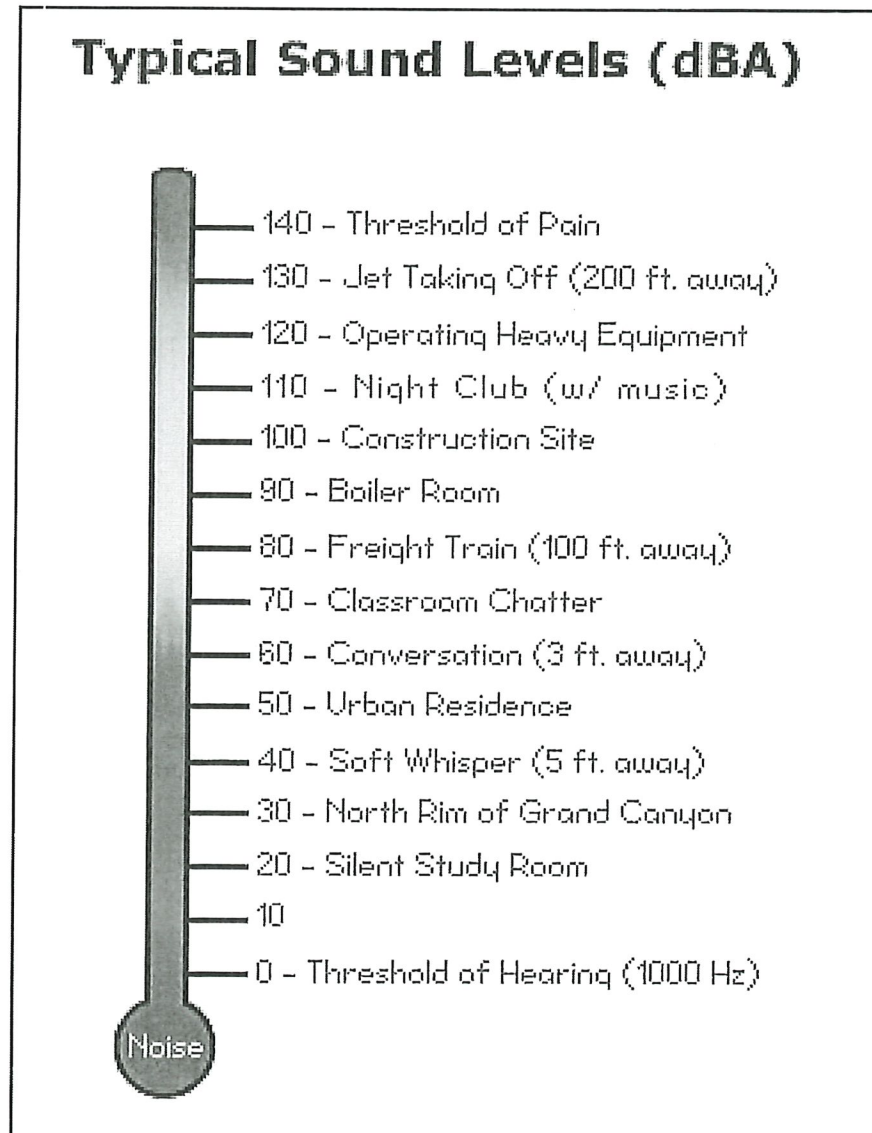
By: 
Leonard M. Braman

cc: Brian Candela, Esq.
Isaac Camoro, Our House

EXHIBIT 1

Our House, 112 Washington Street – Presentation to Norwalk Common Council
Ordinance Committee – 11/28/2018

Federal OSHA Decibel Level Chart



Source: https://www.osha.gov/dts/osta/otm/new_noise/index.html#decibles

EXHIBIT 2



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 Chapter 17. Noise Control

§ 17-7. Specific restrictions

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Updated Versions

1. *Amplified sound.* No person shall cause, allow, or permit the operation of any amplified sound device from the following use districts or locations in the following manner:

a. *Residential use:*

i. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 10:00 p.m. and 7:00 a.m. daily.

ii. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 10:00 p.m. daily.

b. *Rights-of-way.* Sound shall not be plainly audible at a distance of twenty-five (25) feet or more from a motor vehicle or any other sound source.

c. *Special entertainment overlay district.* When measured at a distance of five (5) feet from the building, structure or establishment from which the sound is emanating:

i. *Sound shall not exceed:*

1. Eighty-five (85) dBA or ninety-five (95) dBC Monday through Thursday from 12:00 p.m. to 12:00 a.m. the following day:

2. Seventy (70) dBA or eighty (80) dBC Monday through Thursday from 12:00 a.m. to 2:00 a.m.

3. Sixty-five (65) dBA or seventy-five (75) dBC Monday through Thursday from 2:00 a.m. to 12:00 p.m.

ii. *Sound shall not exceed:*

1. Eighty-five (85) dBA or ninety-five (95) dBC Friday through Sunday and legal holidays (as provided by state law), from 12:00 p.m. to 1:00 a.m. the following day:
2. Seventy (70) dBA or eighty (80) dBC Friday through Sunday and legal holidays (as defined by state law), from 1:00 a.m. to 3:00 a.m.
3. Sixty-five (65) dBA or seventy-five (75) dBC Friday through Sunday and legal holidays (as defined by State law), from 3:00 a.m. to 12:00 p.m.

d. *Commercial, mixed-use, or industrial uses.* No person shall cause, allow, or permit the operation of any amplified sound device in such a manner that it exceeds the following sound level limits:

- i. From 12:00 p.m. to 10:00 p.m. daily: sound levels shall not exceed sixty (60) dBC when measured within the premises of a complainant.
- ii. From 10:00 p.m. daily to 12:00 p.m. the following day: sound levels shall not exceed fifty-five (55) dBC when measured within the premises of a complainant.
- iii. Sound level limits in Table 1 shall apply when sound level measurements are taken outdoors at or within the property line of the complainant.

2. *Animals.* Unless unreasonably provoked, it shall be unlawful for any person to own, keep, possess or maintain any domesticated animal which vocalizes (howls, yelps, barks, squawks, or other noise) and the vocalizing is plainly audible at or within the property line of the complainant; and:

- a. The vocalizing is for more than five (5) minutes without interruptions, defined as an average of four (4) vocalizations per minute; or
- b. The vocalizing is two (2) times or more per minute for twenty (20) consecutive minutes.

3. *Commercial sanitation operations.* No person shall cause, allow, or permit the loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or recyclable containers, between the hours of 10:00 p.m. and 7:00 a.m. daily when such operations are conducted on a property located within two hundred fifty (250) feet of a residential use.

4. *Construction:*

- a. No person shall operate or cause to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto with sound-control devices less effective than those provided on the original equipment.
- b. It shall be unlawful for any person to operate or cause to be operated equipment for the aforementioned uses Monday through Saturday before 8:00 a.m. or after 7:00 p.m. and

Sunday before 10:00 a.m. or after 7:00 p.m., except for public works transportation projects that are approved pursuant to section 17-9

5. *Emergency generators:*

- a. Testing of generators shall be conducted for the minimum duration and at the minimum frequency recommended by the manufacturer, but in no case shall said testing exceed one (1) hour in any one (1) day.
- b. Testing shall only be conducted between the hours of 10:00 a.m. and 7:00 p.m. daily.
- c. The sound emissions from generators shall not exceed sixty-eight (68) dBA when measured at a distance of twenty-three (23) feet from the generator.
- d. When the generator is located on the same parcel as the complainant, the indoor sound level limits in Table 1 shall apply.

6. *Heating, ventilation, and air conditioning (HVAC) equipment on residential property.* No person shall operate or cause to be operated any HVAC equipment on residential property which exceeds forty (40) dBA between the hours of 10:00 p.m. and 7:00 a.m. daily when measured within the premises of a complainant.

7. *Landscaping and yard maintenance power tools or motorized equipment.* No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment Monday through Friday before 7:00 a.m. or after 7:00 p.m. and Saturday and Sunday before 8:00 a.m. or after 6:00 p.m. No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment or appurtenances thereto with sound-control devices less effective than those provided on the original equipment.

8. *Motorboat.* No person shall operate or cause to be operated any motorboat in any lake, river, stream, or other waterway which is not muffled pursuant to F.S. § 327.65.

9. *Motor vehicles, motorcycles, mopeds and motorized scooters.* No person shall cause a rapid throttle advance (revving) of an internal combustion engine resulting in a noise disturbance.

(Ord. No. C-08-37, § 2, 7-15-08)

EXHIBIT 3

Governor Phil Murphy • Lt. Governor Sheila Oliver

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DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Noise Control Act

The State of New Jersey's [Noise Control Act of 1971](#) authorized the NJDEP to promulgate codes, rules and regulations relating to the control and abatement of noise. The Department has developed a Model Noise Ordinance that can be adopted by local municipalities. The Noise Control Act allows municipalities to adopt noise control ordinances that are more stringent than the State code.

All municipal noise ordinances must be identical to the posted Model Local Noise Control Ordinance to be considered approved by the Department. Department approved Model Noise Control Ordinances predating the most recently posted version will be considered grandfathered.

The NJDEP promulgated noise regulations to control noise from stationary commercial and industrial sources in 1974, pursuant to the Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq. Within the noise regulations, there are established sound level standards of 50 decibels during nighttime (10:00 p.m. to 7:00 a.m.) and 65 decibels during daytime.

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Last Updated: June 20, 2017

Community Services Department

Chapter ____: Community Services Department

§ ____-1 Office Established.

On and after the effective date hereof, there shall be a Chief of Community Services of the City of Norwalk, who shall have all of the powers, duties and responsibilities hereinafter set forth in the ordinance and in the position description for the Chief of Community Services of the City of Norwalk as adopted and amended from time to time.

§ ____-2 Appointment.

The head of the department shall be the Chief of Community Services. The Mayor is hereby authorized to appoint and hire a Chief of Community Services who shall be subject to confirmation by the Common Council. The Chief of Community Services shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor at his/her discretion. The compensation and benefits of the Chief of Community Services shall be detailed in the position description as adopted and amended from time to time.

§ ____-3 Duties.

- A. Generally, provides assistance to the Mayor on City issues concerning Community Services.
- B. The Chief shall be responsible for initiating, developing and implementing policies that are outlined in the position description entitled "Chief of Community Services". The Chief will act as a liaison to state and federal agencies dealing with the areas addressed in the position description. The Chief will also perform such other related activities as may be assigned from time to time by the Mayor or the Common Council.
- C. The Chief of Community Services shall have the general supervision of the operation and management of the several units of the department. The Chief shall be responsible for the presentation of a consolidated budget to the Common Council; the supervision of all employees of the department and the preparation of an annual report of the activities of the entire department of Community Services.