

CHAPTER: NOISE

Section

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§ 90.21 LOUD, DISTURBING NOISES PROHIBITED.

It shall be unlawful for any person to create, or assist in creating, any unreasonably loud and/or disturbing noise in the Town.

§ 90.22 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"A" WEIGHTING SCALE. The sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network scale. (Denoted dB(A).)

AMPLIFIED SOUND. Any sound created by a sound magnifying device, whose source is outside or whose source is inside and where the sound propagates to the outside or to other dwellings or interior locations under separate ownership or occupancy.

ANIMALS. The keeping of any animal or bird, which by causing frequent or long continued noise that is unreasonable, shall disturb the comfort and repose of any person in the vicinity.

ANSI. American National Standards Institute or its successor bodies.

CHURCH BELL(S). The ringing of or sounding of any church bell(s) or chime(s) located upon, in or about any church or place of worship in the Town; to include an amplified speaker system simulating the sound of same.

CONSTRUCTION. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not limited to, the clearing, moving, blasting or landscaping of land (earth).

DAYTIME HOURS. 7:00 a.m. to 11:00 p.m.

dB(A). Sound level in decibels, as determined by the "A" weighting scale of a sound meter having characteristics defined by the American National Standards Institute and conforming to the requirements of ANSI/NCSL 2540-1 IOS.

DECIBEL (DB). A unit of measure, on a logarithmic scale, of the ration of the magnitude of a particular sound pressure to a standard reference pressure, which for the purposes of § 90.26 shall be 0.0002 microbars.

EMERGENCY SERVICE VEHICLES. Publicly-owned or operated vehicles used for the purposes of responding to public emergencies, to include police, fire and medical rescue

vehicles, or vehicles of public utility companies or contracted private companies conducting emergency repairs to the protection of public safety.

EXCEPTIONAL PERMIT. An amplified-sound permit authorized by the Town Council upon a finding of legal entitlement of an applicant's request for a permit which is denied by the Town Manager.

MOTOR VEHICLE or VEHICLE. As used herein shall mean any vehicle propelled on land by a motor, such as, but not limited to, automobiles, trucks, truck-trailers, semi-trailers, campers, go-carts, motorcycles, mopeds or buses. It shall exclude trains and emergency service vehicles.

NIGHTTIME HOURS. 11:00 p.m. to 7:00 a.m.

NOISE. As used herein, any unreasonably loud, disturbing sound levels taking into consideration the volume, duration, frequency and other characteristics of the sound.

NOISE CONTROL OFFICER. Any police officer within the jurisdiction (or extraterritorial jurisdiction) of the Town of Columbus who is authorized to enforce the ordinances of the Town of Columbus.

PERSON. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of the state, any other state or political subdivision or agency thereof or any legal successor, representative, agent or agency of the forgoing.

PLAINLY AUDIBLE. Any sound that can be detected by a person using his or her unaided faculties.

SOUND. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and refraction of that medium. The description of SOUND may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL. In decibels, a weighted sound pressure level determined by the use of a sound meter whose characteristics and frequency weighting are specified in ANSI standards.

SOUND LEVEL METER. Any instrument certified to meet or exceed ANSI standards which include an omni-directional microphone, an amplifier and output meter and frequency weighting network(s) for the measurement of sound level.

SPONSOR. (also referred to as "Applicant" or "Property Owner") The owner of real property or person/entity in legal possession of the real property (whether tenant/lawful occupant/etc.) upon which amplified sound is anticipated to take place, or does in fact take place.

VIOLATOR. As described herein, means any person that is in possession of or has control of any noise generating device.

§ 90.23 CERTAIN SOUNDS PROHIBITED.

The following acts and activities, among others, are hereby declared to be a source of "unreasonably loud and/or disturbing noise" in violation of § 90.21:

(A) Sounds impacting residential areas. It shall be unlawful to carry on the following activities in any residentially-zoned area of the Town, or within 300 feet of any residentially-occupied structure in any zone of the Town:

- (1) The sounding of any horn, car alarm, siren or other signal device upon any automobile, except when used as a signal of warning or danger, so as to create any unreasonable noise;
- (2) The playing of any sound-magnifying device, radio, television or musical equipment, within or outside of any structure, in a manner or at a volume so as to annoy or disturb the quiet, comfort or repose of any person in any adjoining dwelling, apartment unit or hotel/motel room;
- (3) The operation a front-end loader for refuse collection during nighttime hours;
- (4) The operation of construction machinery or performing any construction activities during nighttime hours;
- (5) The operation of automotive repairs equipment or garage machinery out-of-doors during nighttime hours;
- (6) The operation of lawn mowers or other domestic power tools, out-of-doors during nighttime hours;
- (7) The creation of any mechanical noise which registers more than 60 dB(A) during nighttime hours at the property line of the source of the noise; and
- (8) The keeping of any animal or bird, which by causing frequent or long continued noise that is unreasonable, shall disturb the comfort and repose of any person in the vicinity

(B) Sounds impacting all areas. It shall be unlawful to carry on the following activities in any area of the Town:

- (1) To operate or allow the operation of any sound amplification equipment except in accordance to a permit obtained from the Town Manager or Town Council (in case of Exceptional Permit issuance);
- (2) To amplify sound produced by a radio, compact disc or any other electronic device, or sounds produced by any person or musical instrument from within a motor vehicle, so as to create an unreasonable noise such that the sound is plainly audible at a distance of more than 50 feet away from the vehicle. This division (B)(2) shall not apply to vehicles used for business or political purposes which, in the normal course of operation, are not within 500 feet of any school, child care center, house of worship, personal care facility or hospital. This division (B)(2) does not apply to vehicles operating such equipment during public parades when a valid outdoor gatherings permit, with the sound conditions identified, has been issued;
- (3) To discharge into the open air the exhaust of any internal combustion engine when the muffler system is missing or configured in such condition so as to result in the creation of unreasonable noise; and

(4) The operation of any motor vehicle outside of any structure on private or public property in such a manner as to create unreasonable noises, by actions including, but not limited to racing engines, spinning tires, jackrabbit starts and off-road operation.

(C) Exemptions. This section shall not apply to:

(1) Emergency operations designed to protect the public health or safety;

(2) Work performed by state, county, Town or government-contracted crews in a right-of-way or utility easement when the department responsible for the work determines that it is necessary to perform the work during nighttime hours, under the following considerations:

(a) To avoid unreasonably impacting the flow of traffic; or

(b) To avoid unreasonably disrupting the provision of utility service.

(3) Church bells.

§ 90.24 PERMITS FOR AMPLIFIED SOUND.

(A) Application. An application, on a form approved by the Town, for a permit for commercial sound amplification pursuant to this section must be submitted to the Town Manager's Office no more than 30, but no less than 15, business days before the permit time requested. The application shall specify the responsible person(s) for the sound amplification equipment.

(B) Factors to be considered. In determining whether a permit should be issued pursuant to this section, the Town Manager shall consider the following:

1. The time period during which the event will occur;
2. The location of the event;
3. Whether the activities would be in compliance with other applicable laws;
4. Whether the designated place (or nearby place) at the requested time has already been permitted to a different applicant
5. Whether the equipment to be used and the number of units of equipment to be used will likely lead to excessive noise;
6. Whether the Applicant/Sponsor has had any prior violations of the Town noise ordinance, amplification ordinance, or related state or federal law violations;
7. Whether the Applicant/Sponsor was found to have made misleading statements in prior applications to the Town requesting issuance of an amplification permit;
8. Whether this Applicant/Sponsor has had prior permits granted which excluded the opportunity to provide permits to neighboring property, and whether in the interest of fairness and equity, a neighboring property should be given a permit

(C) Review of permits. Permit applications shall be reviewed by the Town Manager, and after consideration of the factors outlined in subsection (C) above, the Town Manager shall decide which permits to grant and which permits to reject. The Town Manager may include reasonable

conditions on any permit to be granted (including, but not limited to, a set decibel limit on noise) and any failure of the Sponsor to abide by (or ensure other participants abide by the same) may result in the denial of future permits, the suspension of the sponsor's ability to request a similar permit for a set period of time, and/or the immediate revocation of any permit granted as a result of this application.

(D) Limit on permits by geographical area. Subsequent permits shall not be issued for the same date for a location within a 500-foot radius of the location of an issued permit.

(E) Not permitted in residentially-zoned areas. Permits for sound amplification may not be issued for residentially-occupied property. The creation of sounds registering more than 70 dB(A) anywhere within the boundary line of the nearest residentially-occupied property shall be prohibited.

(F) Permit revocation. If sound checks taken by a Town of Columbus Police Officer, or other authorized law enforcement officer, during the event of amplified sound determines the sound levels to be in excess of the permit, or should it be determined that any other conditions of this section have not been completed as required or other conditions of the permit not met, the law enforcement officer charge the offender with a violation of this ordinance, and require an immediate cessation of the amplified sound. In addition, law enforcement shall notify the Town Manager of such violation so that a record may be made of any such violation and considered when determining whether additional permits shall be issued to a particular venue in the future.

(G) Permit denial. If the applicant has been denied the issuance of a permit by the Town Manager, and believes the denial to be illegal under applicable local, state or federal law, the applicant may appeal the denial to the Town Council. The appeal shall be delivered in writing, and shall include a copy of the permit and a statement as to the applicant's beliefs to the legal basis for the appeal. The Town Council shall have the discretion to grant an Exceptional Permit, waiving the exceptions for location, time of day and/or decibel restrictions, upon his or her determination that the applicant has made a substantial showing of legal entitlement.

§ 90.25 OUTDOOR AMPLIFICATION AND MUSIC AT COMMERCIAL ESTABLISHMENTS.

(A) Except in accordance with a permit issued pursuant to § 90.24, it shall be unlawful for any commercial establishment, including, but not limited to, restaurants, bars or nightclubs, to operate or allow the operation of sound amplification equipment out of doors or directed out of doors (an establishment will be presumed to be directing sound amplification out of doors if the sound levels exceed the following set limits at the prescribed measuring distance). Permits issued pursuant to this section shall allow for the operation of sound amplification equipment consistent with the decibel limits established below unless further conditions are required on the permit itself:

<i>Table 1 - Monday through Sunday</i>	
7:00 a.m.—11:00 p.m.	11:00 p.m.—7:00 a.m.
70 dB(A)	70 dB(A)

(B) The decibel limits prescribed in this section shall be measured approximately 200 feet from any entrance to the facility if it appears the noise is coming from inside the establishment, or 200 feet from any boundary of an outdoor entertainment area of the commercial property from where the sound is being generated. The law enforcement officer measuring decibel limits shall use his/her skill and training in estimating the distance required herein and shall not be required to use a measuring device to confirm distance. Should a noise check be required for any venue utilizing an outdoor entertainment area, a law enforcement officer shall use his/her best judgment in determining what constitutes the boundary of an outdoor entertainment area for purposes of determining the 200 feet requirement herein.

(C) The amplified sound may only be produced during the operational hours of the commercial establishment.

§ 90.26 SOUND MEASUREMENT PROCEDURES.

(A) For the purpose of determining decibels (dB(A)) as referenced in this chapter, the noise shall be measured on the "A-weighting scale slow response" on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

(B) When the Noise Control Officer determines that insufficient prima facie evidence exists for establishing a noise violation case, the investigating officer will use a sound-level meter to measure the sound level. Sound measurements shall be conducted at that time, day or night, when the suspect noise source is emitting sound.

(C) The following procedures shall be utilized in the sound measurement process.

(1) The sound measurement equipment shall have been calibrated.

(2) Prior to obtaining the sound sample, the sound level meter shall be set to the "A" weighted network at slow response.

(3) No individual other than the operator of the sound meter shall be within ten feet of the sound level meter during the measurement process.

§ 90.27 PENALTY.

(A) Enforcement remedies. Violation of this offense will be a class 3 misdemeanor and a \$500.00 fine.

(1) The Town may seek an injunction and order of abatement directed toward any person or entity creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

(B) Enforcement of § 90.25. When there are repeated violations of § 90.25, the Town Manager, at his/her discretion, may take the following enforcement.

(1) An establishment which has been found in violation of § 90.25 more than two times within any 12-month period may have its privileges under this section suspended for a period of up to 12 months.

(2) The Town may seek an injunction and order of abatement directed toward any person or entity creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

(3) An establishment whose privileges under § 90.25 have been suspended continues to produce or allow to be produced amplified shall be subject to a class 3 misdemeanor and a \$500.00 fine per violation.

Cross-reference:

Certain sounds prohibited, see § 90.23