

Karen Galbo, ATC

TOWN OF EAST LYME
NOTICE OF PUBLIC HEARING

EAST LYME TOWN CLERK

NOTICE IS HEREBY GIVEN, that the East Lyme Board of Selectmen will hold a public hearing on Wednesday, March 6, 2013 at the East Lyme Town Hall Upper Meeting Room at 7:00 p.m. to consider the following ordinance:

Town of East Lyme
Noise Control Ordinance

TITLE: The title of the ordinance shall be the "Town of East Lyme Noise Control Ordinance."

PURPOSE: Pursuant to the general authority of Connecticut General Statutes 7-148 and the specific authority of Connecticut General Statute 22a-73(c) it is hereby resolved that to preserve and promote the health, safety and general welfare of the citizens of the Town of East Lyme (the "Town"), it is in the common interest to enact a reasonable regulation pertaining to the reduction, control and/or prevention of noise as to promote a general environment free from excessive noise and vibration.

This ordinance is enacted to preserve, protect and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of East Lyme, and to facilitate the enjoyment of natural resources and tranquility of the town, through the reduction, control and prevention of excessive noise and vibration.

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.

BOARD OF SELECTMEN - The Board of Selectmen of the Town of East Lyme or a duly authorized officer.

COMMERCIAL ZONE - As set forth in the East Lyme Zoning Regulations and all associated therewith either permitted as a right or as a special use.

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 properties, but excluding demolition.

CONSTRUCTION EQUIPMENT - Any equipment or device operated by any fuel or electric power used in construction or demolition work.

DAYTIME HOURS - The hours between 7:00 a.m. and 10:00 p.m., Monday through

Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sundays.

DECIBEL - A logarithmic unit of measure in measuring magnitudes or sound. The symbol of dB.

DEMOLITION - any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar properties.

DOMESTIC POWER EQUIPMENT - Including but not limited to power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

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

EMERGENCY VEHICLE - Any motor vehicle authorized by the State of Connecticut to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency. (14-283)

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 of imminent danger.

IMPULSE NOISE - Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

INDUSTRIAL ZONE - As set forth in the East Lyme Zoning Regulations and all uses associated therewith, either permitted as a right or as a special use.

MOTOR VEHICLE - Per Section 14-1 of the Connecticut General Statutes.

MUFFLER - A device for abating sounds such as escaping gases.

NIGHTTIME HOURS - The hours between 10:00 p.m. and 7 a.m., Sunday evening through Saturday morning, except that "night" shall mean the hours between 10 p.m. Saturday and 9:00 a.m. Sunday.

NOISE - Any sound, the intensity of which exceeds the standards set forth on Page 3.

NOISE LEVEL - The sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated db(A) or dBA.

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 building structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without building or improvements owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-or-way, all road right-or-ways 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.

RESIDENTIAL ZONE - Those residential districts as defined and set forth in the East Lyme Zoning Regulations and all uses associated therewith either permitted 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 (20) times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter and is expressed in decibels (dB).

A. **Noise Levels:** No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her premises in excess of the following Noise Levels:

Property Use Emitter	Property Use Receptor			
	Residential:		Non Residential:	
	Day	Night	Day	Night
Residential Zone Emitter	55 dBA	45 dBA	55 dBA	45dBA
Non-residential Zone Emitter	55 dBA	45 dBA	52dBA	45dBA

Measurements shall be taken at a point on the property line of the emitter closest to the receptor and/or at the property line at any neighboring property (that may or may not be contiguous) with a more restrictive decibel allowance. In cases where the emitter is located on jointly owned property, such as industrial parks and condominiums, the noise measuring equipment (i.e. microphone) shall be placed at a fifty foot (50') distance from the noise source. The microphone shall be placed no closer than five feet from any wall and not less than three feet above ground that is located about one foot (1') beyond the boundary of the emitter's premises within the receptors premises. The emitter's premises include his/her individual unit of land or group of contiguous parcels under same ownership as indicted by public land records.

1. No person shall cause or allow the emission of impulse noise in excess of eighty (80) dBA peak sound pressure level during the night time to any residential noise zone.
2. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dBA peak sound pressure level at any time to any zone.

B. Exclusions: These levels shall not apply to noise emitted by or related to:

1. Natural phenomena
2. Any bell or chime from any building clock, school or church.
3. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation; provided however, that burglar alarms not terminating in thirty minutes after being activated shall be unlawful.
4. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
5. Farming equipment or farming activity.
6. Train horns and signals.

C. Exemptions: The following shall be exempt from these regulations subject to special conditions as spelled out:

1. Noise generated by any construction equipment which is operated during daytime hours. Noise generated by construction equipment during nighttime hours shall not exceed the maximum noise levels as specified on Page 3 Sec. A.
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.
4. Noise from snow removal equipment.
5. Noise from demolition work conducted during daytime hours. When considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.
6. Noise created by any aircraft flight operations which are specifically permitted 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 town or State of Connecticut, including but not limited to parades, sporting events, concerts and firework displays.

8. Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public or provided that a permit for such blasting is obtained from local authorities.
9. Noise generated by the police and other established shooting facilities as permitted by Connecticut Firearms laws Sec. 22a-74a.

REFUSE COLLECTION NOISE

All refuse collectors shall comply with the noise level standards as established in this article while engaging in refuse collection at each location. For purposes of this article, the term "refuse collectors" shall be synonymous with private haulers, and all other persons that commercially engage in the collection and transportation of refuse and other debris.

MOTOR VEHICLE NOISE:

- A. All motor vehicles as defined in Section 14-1 of Chapter 246 of the Connecticut General Statutes, operated within the limits of the Town of East Lyme shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in the Noise Levels section (Page 3 Sec. A).
- C. Recreational motorized vehicles operating off public rights-of-way.
 1. No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in section A, Noise Levels.
 2. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, ATV's, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats or aircraft.

ENFORCEMENT AND PENALTIES FOR OFFENSES

- A. The East Lyme Police Department shall be responsible for investigating and documenting, through acoustic measurements, violations of this ordinance. Violators may be served with an ordinance citation, which shall be known as a "Noise Ticket". Payment of the fine prescribed by such Noise Ticket within the time specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Fines shall be in the amount of \$99.00 for each day that the violation continues until the noise is abated. Nothing in this ordinance shall prevent the Police Department, because of the perceived nature of the offense, from proceeding not under the terms of this ordinance, but under the provisions of Connecticut General Statutes §53a-181 and §53a-182, as they may be amended from time to time, which sections relate, generally, to breach of peace, etc.

An appeal process relative to noise tickets is established below. The First Selectman shall appoint a hearing officer who shall serve at his/her discretion to hear appeals from

the issuance of noise tickets. A Person shall have thirty (30) days from the date of the Noise Ticket to deliver a written application for a hearing. The Hearing Officer shall hold a hearing within five days of the receipt of the application, and his/her decision shall be final.

- B. In those individual cases where the background noise levels caused by sources not subject to this ordinance exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of Section A, Noise Levels, shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels of the other sections of this ordinance.

VARIANCES

- A. Any person living or doing business in East Lyme may apply to the Town's Board of Selectman for a variance from one (1) or more of the provisions of the ordinance which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplied all of the following information to the Board of Selectmen at least twenty (20) days prior to the start of said activity.
 - 1. The location and nature of the activity.
 - 2. The time period and hours of operation of said activity.
 - 3. The nature and intensity of the noise that will be generated.
 - 4. Any other information required by the Board of Selectmen.
- B. No variance from these regulations shall be allowed unless it has been demonstrated that:
 - 1. The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
 - 2. The noise levels generated by the proposed activity will not constitute a danger to the public health.
 - 3. Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- C. The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.
- D. Failure to rule on the application in the designated time shall constitute approval of the variance.

SEVERABILITY

- A. If any term or provision, or any portion thereof, of this Ordinance, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Ordinance, or the application of such term or provision to persons or

circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Ordinance shall be valid and be enforced to the fullest extent permitted by law. Should a court of competent jurisdiction find any provision or part of a provision unenforceable as written the court may reform such provision or part of a provision to render it enforceable consistent with the general intent of the remaining portion of such provision and/or this Ordinance.

EAST LYME BOARD OF SELECTMEN

Dated at East Lyme, CT this 6th day of February, 2013.