

## **Article 44 - Noise By-law – Amended Motion**

*Drafted & Submitted by:*

Piper Slowinski, Precinct 7

*Co-signers:*

Teddy (Grace) Hansen-Dewar, Precinct 3

Dx Lanson, Precinct 5

**WHEREAS:** Noise pollution is a public health hazard and has been linked in studies to high levels of stress, poor sleep, and an increased risk for ischemic heart disease, heart failure, and stroke.

**WHEREAS:** Noise and nuisance complaints are frequently used to disproportionately target Black people, people of color, immigrants, and lower-income communities.

**WHEREAS:** As written, the current motion leaves the definitions of “excess” and “plainly audible” noise up to individual discretion, heightening the likelihood that it could be applied inequitably.

**WHEREAS:** The Occupational Safety and Health Administration (OSHA) recommends wearing earplugs when exposed to noise levels of 85 decibels (dBA) or higher to protect against hearing loss and potential damage.

**WHEREAS:** In 2021, one of our neighbors - the City of Brockton - passed a noise ordinance that centered equity in its approach, linking and defining “excess noise” to specific decibel measurements (60 dBA at 50 feet away) and lowering violation fines.

**WHEREAS:** A 60 dBA noise at 50 feet away would be a 55 dBA noise at 150 feet away (the distance used in this original motion), and a 55 dBA noise is approximately comparable to the noise from a coffee percolator or light background traffic.

**WHEREAS:** Instead of recreating the wheel, we can follow Brockton’s approach to improve our Town’s public health through an equity-informed approach.

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**AMENDED MOTION:** I move to amend the Main Motion as follows, with the deletions noted as ~~stricken~~ through and additions denoted below in bold **RED:**

§ 137 Noise

§ 137-1. Purpose:

Excessive noise is a serious hazard to the public health and welfare, safety, and quality of life; and the people of the Town of Stoughton have a right to an environment free from excessive noise that may jeopardize their health or welfare or safety or degrade their quality of life; now,

therefore, it is the purpose of this to prevent excessive noise which may jeopardize the health and welfare or safety of the Town's citizens or degrade the quality of life.

#### § 137-2. Definitions:

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

Noise Injury: Any sound that endangers the safety of, or could cause injury to the health of, humans, or endangers or injures personal or real property. **For this purpose, Noise Injury is to be measured and defined as noise in excess of 85 decibels (dBA).**

**Plainly Audible: Any sound that measures in excess of 55 decibels (dBA) to a properly calibrated sound level meter at the distance specified.**

Electronic Device: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Leaf Blower: Any portable machine used to blow leaves, dirt and other debris off or across lawns, sidewalks, driveways, and other horizontal surfaces.

Noise Pollution: Sound that is plainly audible (**see above definition**) in any public place at a distance of 25 feet or more in any direction or so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity of any such person in or on the public sidewalks, ways or other public places.

#### § 137-3. Scope and Exemptions:

This chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this policy.

#### § 137-4. Restrictions:

A. On nights beginning on Sunday through Thursday at 10:00 PM until 7:00 AM the following morning and on nights beginning on Friday, Saturday and on Federal Holidays at 11:00 PM until 7:00 AM, it shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof, or any vehicle in the Town, and it shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, to cause, create, suffer or allow any unnecessary, loud, excessive or unusual noises in operation of any speaker, radio, phonograph or other mechanical or electronic sound-making device or instrument, or reproducing device, or in the playing of any band, orchestra, musician, or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous

noises, or loud and boisterous singing by any person or groups of persons, or in the use of any device to amplify the aforesaid noises where the noise is plainly audible at a distance of 150 feet from the building, structure, vehicle or premises in which or from which it is produced. ~~The fact that the noise is plainly audible at a distance of 150 feet from the vehicle or premises from which it originates shall constitute prima facie evidence of a violation of this policy.~~

Additionally, no person owning, leasing or controlling the operation of any Electronic Device shall willfully or negligently permit the establishment or condition of Noise Injury. In public spaces, the existence of Noise Injury is to be judged to occur at any location a passerby might reasonably occupy. When the offending noise source is located on private property, Noise Injury **measurements** shall be made at the property line within which the offending source is located. ~~Any and all decibel levels of sound caused by playing non-electrified musical instruments, except drums, between 7:00 AM and 10:00 PM on Sundays through Thursdays and between 7:00 AM and 11:00 PM on Fridays, Saturdays and Federal Holidays shall be exempt from this chapter.~~

B. Every day from ~~7:00~~ **8:00** PM to 7:00 AM, no person shall operate a leaf blower, power tool, power equipment, construction tool, heavy machinery or vehicles, perform tree or grass cutting or trimming, or perform construction, demolition, excavation, loading or unloading, machine work, carpentry, chiseling, blasting or similar activities in such a manner that creates Noise Pollution. Any person seeking to emit noise in such a manner as prohibited in this paragraph may request permission to do so for a specific place and period of time from the Select Board.

#### § 137-5. Enforcement:

The enforcing officials shall be the Building Commissioner or his/her designee and any police officer in the Town of Stoughton, who shall enforce against violations of said sections by noncriminal disposition pursuant to the authority and procedure of G.L. c. 40, § 21D. Unless otherwise specified, fines for violations of this chapter shall be:

- (1). For the first offense **in any 12-month period: \$100. Written Warning**
- (2). For the second offense **in any 12-month period: \$200- \$100**
- (3). For the third and subsequent offenses **in any 12-month period: \$300.**

**Documented evidence of sound level through use of a properly calibrated sound level meter readings shall be necessary to establish a violation.**

~~Notwithstanding the forgoing, the enforcing officials may, in addition to or in the alternative, enforce this section through civil or criminal enforcement as may be warranted.~~

#### Article XII Engine Braking

##### § 266-81

The use of engine brakes, so called, shall be prohibited on all public ways in the Town of Stoughton. Engine ("Jake") braking is allowed in emergency situations and to avoid injury, or an

accident, and the truck driver may use that claim as an affirmative defense if ticketed for violating this section.

Violations of this section shall be enforced by the Stoughton Police Department by the issuance of a civil citation with a fine not to exceed \$300 per violation and shall be disposed of as a noncriminal disposition under MGL c. 40, § 21D.