



**City of Norwalk
Board of Health
Monthly Meeting Agenda
October 23, 2018
8:30 AM
Library**

- 1) Approval of the September 25, 2018 Meeting Minutes
- 2) FDA Food Code Update
- 3) Environmental Services Fees
- 4) Noise Ordinance
- 5) Proposed Plastic Bag Ban Ordinance
- 6) Flu Vaccination
- 7) Personnel Updates
- 8) Other Business

Included as 10/23/18 Backup:

- Proposed amendments to the Noise Ordinance from a noise consultant
- New proposed ordinance, "Use of Carryout Bags by Retail Establishments"

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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, and all uses associated therewith, either permitted as a right or as a special use.

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

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.

EXTRANEOUS SOUND

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

HEALTH BOARD

As defined in Chapter 57 in the City Code.

IMPULSE 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 designed "dB(A)" or "dBA."

SOUND LEVEL METER

An instrument used to take sound level measurements and which should conform, as a minimum, to ~~the 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 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.
- DC. 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 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

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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

<u>Difference between Total Sound Level and Ambient Sound Level (TSL – ASL) in dB</u>	<u>Correction Factor to be Subtracted from Total Sound Level to Calculate Corrected Source Sound Level</u>
<u>0-3</u>	<u>Source Level < Ambient Sound Level</u>
<u>4-5</u>	<u>2</u>
<u>6-9</u>	<u>1</u>
<u>10 or more</u>	<u>0</u>

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 limits.

A. No person shall operate or cause to be operated any source of sound from any use occupancy in such a manner as to create a sound level which exceeds the limits set forth in the use occupancy category in Table 2, when measured at or within the property line of the receiving property.

(1) Continuous Sound

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

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

<u>Residential¹</u> <u>Day Time</u>	<u>Residential</u> <u>Night Time</u>	<u>Commercial</u> <u>24 hours</u>	<u>Industrial</u> <u>24 hours</u>
<u>OUTDOORS</u>			
<u>55</u>	<u>45</u>	<u>65</u>	<u>70</u>
<u>INDOORS²</u>			
<u>45</u>	<u>35</u>	<u>55</u>	<u>60</u>

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**

<u>Facility Location</u>	<u>Time of Day</u>	<u>Sound Level Limit dB(A)</u>		
		<u>At a Distance of 10 Feet from the Facility¹</u>	<u>Property Line of Affected Person</u>	<u>Inside Residence of Affected Person</u>
<u>Washington Street Development District (WSDD)</u>	<u>Day²</u>	<u>75</u>	<u>65</u>	<u>45</u>
	<u>Night</u>	<u>65</u>	<u>55</u>	<u>35 within WSDD</u> <u>Plainly Audible in Any Other Zone</u>
<u>Any Other Commercial District</u>	<u>Day</u>	<u>70</u>	<u>60</u>	<u>40</u>
	<u>Night</u>	<u>60</u>	<u>50</u>	<u>Plainly Audible</u>

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:~~

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)
Industrial	70 dBAs	66 dBAs	61 dBAs	51 dBAs

~~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.

~~(5) _____ Agricultural activities, when all internal combustion engines are equipped with a properly functioning muffler.~~

~~Farming equipment or farming activity.~~

E.C. ~~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.~~

~~(3) 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.~~
- D.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. 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.

B.D. 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.E. It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

D.E. 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).

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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.~~

MC. 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.

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USE OF CARRYOUT BAGS BY RETAIL ESTABLISHMENTS

§ ____-1. – Purpose.

The purpose of this article is to preserve and protect the environment in the City of Norwalk and encourage the use of Reusable Carryout Bags by reducing the use of Carryout Bags made of plastic and prohibiting the use of Carryout Bags made of non-recyclable paper.

§ ____-2. – Definitions.

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

CARRYOUT BAG

A bag of any material, commonly plastic or kraft paper, that is provided to a consumer at the point of sale to carry purchases out of the establishment. The term shall not include:

- A. Bags used by consumers inside a Retail Establishment to:
 - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
 - 2. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
 - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - 4. Segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or
 - 5. Contain unwrapped prepared foods or bakery goods.
- B. Newspaper bags, door-hanger bags, or laundry-dry cleaning or garment bags.
- C. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- D. Bags of any type that customers bring to a Retail Establishment for their own use.

RETAIL ESTABLISHMENT

Any person, corporation, partnership, business, or other organization or group, however organized, that transfers merchandise, goods, or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer in exchange for payment. The term includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, clothing store, hardware store, hospital, pharmacy, liquor store, restaurant,

delicatessen, convenience store, food truck, sidewalk vendor, farmers' market, flea market, and any other retail store or vendor. The term shall not include the sale of goods at yard sales, tag sales, or other sales by residents at their home.

REUSABLE CARRYOUT BAG

A bag with handles that is specifically designed and manufactured for multiple reuse that (1) is made of (a) cloth, fiber, or other machine washable fabric, or (b) durable plastic that is at least 12.0 mils (thousandths of an inch) thick, and (2) does not contain lead, cadmium, or any other toxic material, as defined by applicable state and federal standards and regulations for packaging or reusable bags.

§ ____-3. – **Restrictions on Carryout Bags.**

- A. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of plastic, other than Reusable Carryout Bags, in the City of Norwalk.
- B. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of paper in the City of Norwalk, unless such bags:
 - 1. Are 100% recyclable;
 - 2. Contain a minimum of 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content); and
 - 3. Conspicuously display the phrase “Reusable” and “Recyclable” on the outside of the bag and the percentage of post-consumer recycled content.

§ ____-4. – **Charges for Carryout Bags.**

- A. Any Retail Establishment that elects to provide Carryout Bags made of paper consistent with Section 3.B. of this article shall charge the consumer at the point of purchase \$.10 for each such bag.
- B. The charge imposed by a Retail Establishment as provided in Paragraph A of this Section shall be retained solely by the Retail Establishment.
- C. All Retail Establishments shall indicate on the consumer transaction receipt the number of Carryout Bags provided and the total amount of charge imposed. It shall be a violation of this article for a Retail Establishment to fail to separately itemize the charge upon a consumer’s purchase of such bag.
- D. No Retail Establishment shall rebate or otherwise reimburse a customer for any portion of the charge provided in Paragraph A of this Section.
- E. Nothing in this article shall prohibit a Retail Establishment from providing Reusable Carryout Bags for no or nominal cost or encouraging and providing

incentives for the use of Reusable Carryout Bags, including credits or rebates for customers that bring their own Reusable Carryout Bags for the purpose of carrying purchases out of the Retail Establishment.

- F. Nothing in this Article shall prohibit a consumer from using bags or containers of any type that they bring to a Retail Establishment or from carrying away goods that are not placed in bags.
- G. It shall be presumed that all Carryout Bags sold or used by a Retail Establishment are subject to the charge provided in Paragraph A of this Section until the contrary is established. The burden of proving that such Carryout Bags are not subject to the charge hereunder shall be upon the Retail Establishment so claiming.

§ ____-5. – **Exceptions.**

- A. The charge reflected in Section 4 of this article shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.
- B. The charge reflected in Section 4 of this article shall not apply to the use of Carryout Bags to carry items purchased pursuant to the Supplemental Nutritional Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or a similar governmental food assistance program.

§ ____-6. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the [Department of Public Works] or its designee.
- B. Upon determination that a violation has occurred, the Retail Establishment shall be liable for the following:
 - 1. Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Retail Establishment. No penalty shall be imposed for the initial violation;
 - 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and
 - 3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).

§ ____-7. – **Severability.**

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

§ ____-8. – **Effective date.**

This article shall become effective six months following its adoption by the Common Council in order to allow Retail Establishments time to dispose of their existing inventory of Carryout Bags made of plastic and convert to alternative packaging materials compliant with this article.