

Noise Control Ordinances:

Authority, Scope and Implementation

Since the first day of operation, the nearby residents have been hearing the many effects emanating from the sound mechanism. These are as varied as the ingenuity of man to create them. They consist of laughter in all its varied expression, conversation in all its range, song and music in all their gamut, and all those other indescribable sounds from the wail of an agonized soul to the uproar of roller skaters upon a wooden floor.

- *Buchanan v. Milford Drive-In Theatre Corp.*, 7 Conn. Supp. 324, 1939 WL 944 (1939).

Why?

- Provides uniform standards for measurement of violations.
 - Useful for guiding zoning commissions regarding cases where noise is a concern.
- Violation establishes negligence per se in public/private nuisance actions.

Legal Authority:

- General Statutes Ch. 442: Noise Pollution Control. CGS §22a-67 through 22a-76 adopted in 1974.
- General Statutes §22a-73(b):
 - Municipality may adopt a noise control ordinance.
- General Statutes §22a-73(c):
 - No ordinance shall be effective until such ordinance has been approved by the DEP Commissioner.
 - No ordinance shall be approved unless it is in conformity with any state noise control plan.
 - Municipality may adopt more stringent noise standards than those adopted by the commissioner, provided such standards are approved by the Commissioner.

Implementing Regulations:

- RCSA §§22a-69-1 through 22a-69-7.4
- <http://www.ct.gov/dep/lib/dep/regulations/22a/22a-69-1through7.pdf>
- Try to keep your ordinance as consistent with the regulations as possible.
- West Hartford Code of Ordinances Ch. 123.
<http://www.westhartford.org>

Format of Ordinance

- Definitions – Refer to Regulations
- Exceptions
- Noise District Classifications
- Standards
- Testing Methodologies
- Administration/Enforcement

Exceptions

- Exceptions are numerous under regulations and are very important unless you want to be citing everyone every day.
 - Safety signals/backup alarms
 - Lawn care equipment/construction activity (between set hours).
 - Church bells (during services)
 - Snow removal equipment
 - Public celebrations/sporting events

Noise Districts

- Noise district classifications based on zoning classification
- Residential/Business/Industrial Noise Districts.
- Within a Noise District, the noise emitter's zone includes contiguous parcels under the same ownership as indicated by the public land records and contiguous street and highway rights-of-way, railroad rights-of-way and waters.

Specific District Standards

- Example:
 - Industrial Emitter to:
 - Industrial Receptor: 70 dBA
 - Business Receptor: 66 dBA
 - Residential Receptor (Day): 61 dBA
 - Residential Receptor (Night): 51 dBA

Decibel Ranges

- 0 dB the quietest sound you can hear.
- 30 dB whisper, quiet library.
- 60 to 70 dB Normal conversation at 3-5 feet
- 60 dB normal conversation, sewing machine, typewriter.
- 90 dB lawnmower, shop tools, truck traffic; 8 hours per day is the maximum exposure.
- 90 to 95 dB Level at which sustained exposure may result in hearing loss
- 100 dB chainsaw, pneumatic drill, snowmobile; 2 hours per day is the maximum exposure.
- 115 dB sandblasting, loud rock concert, auto horn; 15 minutes per day is the maximum exposure.
- 120 to 135 dB Symphonic music peak, level at which sound can produce pain
- 140 dB gun muzzle blast, jet engine; noise causes pain and even brief exposure injures unprotected ears; maximum allowed noise with hearing protector.
- 150 dB Rock music peak
- 180 dB Death of hearing tissue

Special Circumstances

- Impulse noise.
 - 80/100 dBA
- Infrasonic and ultrasonic sound.
 - 100 dBA
- Prominent Discrete Tones
 - Reduce otherwise allowed dBA level by 5.
- High background noise areas
 - May exceed background noise by up to 5 dBA with a cap of 80 dBA

Motor Vehicle Noise

- CGS 14-80a:
 - (a) No person shall operate a vehicle or combination of vehicles... in such a manner as to exceed the decibel levels established under subsection (c)...
 - (b) No person shall sell or offer for sale a new vehicle which... exceeds the decibel levels established under subsection (c)...
 - Implementing Regulations: RCSA 14-80a-1 through 14-80a-10a.

...*But*

- No power equipment and no sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels specified in this chapter.
- *State v. Riviere*, Superior Court of Connecticut, Docket No. CR060155887S, 2006 WL 3114419 (Nigro, JTR).

Testing

- Testing is performed according to very precise protocols.
 - Requires proper equipment and training.
 - Requires frequent calibration.
 - Testing usually must be planned in advance.

Administration

- Who is your administration/enforcement authority?
 - Cross-Training
 - Risk of Implied Approval
 - Do you need night time enforcement?
 - Can the noise be recreated during the day for testing purposes?
 - Daily/seasonal temperature fluctuations
 - Background noise levels

Variance Procedure

- Despite exemptions, a variance procedure is critical.
 - Night time Road Work.
 - Long-term activities extending into night.
- Important to establish detailed and objective process.
- Variances don't have to run with the land.

Enforcement

- Notice of Violation specifying:
 - The noise source where the violations are alleged to exist.
 - The alleged violations.
 - An appropriate or acceptable method of correction.
 - A specific date for the correction of any violation alleged.
- Served upon the owner, occupant, operator or agent of the noise source personally or by registered mail, return receipt requested.
 - Posting the notice in or about the noise source described in the notice or by causing such notice to be published in a newspaper of general circulation for a period of five consecutive days.
- If no compliance by cure date, penalties commence.
- Appeal process

*Go placidly amidst the noise and
waste, and remember what
comfort there may be in owning a
piece thereof.*

Deteriorata

(National Lampoon)