Abington Noise Regulations

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SECTION 1: AUTHORITY

These regulations are issued by the Board of Health pursuant to its authority under Chapter 111, Sections 31 and 122, of the Massachusetts General Laws as reasonable and necessary for the protection of the health and welfare of the citizens of the Town of Abington.

SECTION 2: PURPOSE

Chronic or repeated exposure to excessive noise is recognized by public health experts as a hazard to both physical and mental health. It can cause a number of ailments including emotional stress, fatigue, high blood pressure and hearing loss. Damage to hearing from excessive noise can be permanent; hearing loss cannot be restored with therapy. The Abington Board of Health declares excessive noise a nuisance. Therefore, the purpose of these regulations is to prohibit the owning, leasing, or controlling operations of any source(s) of noise that causes unnecessary noise within the limits of the town either willfully or negligently.

Recognizing that people have a right to and should be ensured an environment free from excessive sound and vibration capable of jeopardizing their health or safety or welfare or of degrading their quality of life, this regulation is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Abington, Massachusetts, through the reduction, control and prevention of noise by establishing maximum noise levels upon and between premises, prohibiting certain noise-producing activities, providing for inspection, and establishing offenses and penalties.

SECTION 3: DEFINITIONS

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

BACKGROUND NOISE - Noise from all sources other than the particular sound(s) that is of subject of a complaint or investigation, e.g. other than the sound being measured.

BUSINESS USE – All uses included in the B-1 (Retail Business) Zoning District, as identified on the Zoning Map of the Town of Abington, Massachusetts, and as defined in the Zoning Bylaws of the Town of Abington, Massachusetts.

COMMERCIAL POWER EQUIPMENT - All engine- or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators. (Examples of "commercial power equipment" are log chippers, paving rollers, etc.).

CONSTRUCTION AND DEMOLITION - Any and all physical activity necessary or incidental to site preparation, assembly, demolition, erection, substantial repair, alteration, cleaning, destruction, installation or similar action for public or private rights-of-way, roads, highways, structures, premises, parks, utilities, utility lines or other similar property development and shall include land clearing, grading, excavating, filling and paving

CONSTRUCTION DEVICE - Any electrical, battery, gas or generator powered device or equipment designed and used for construction and/or demolition.

DAYTIME HOURS - The period between the hours of 7:00am and 6:00pm on weekdays. Between the hours of 9:00am and 6:00pm on Saturdays, Sundays, and legally observed holidays.

dBA - The A-weighted sound-pressure level in decibels, as measured by a general purpose sound-level meter complying with the provisions of the American National Standards Institute in Specifications

for Sound Level Meters (ANSI S1.4 1983), properly calibrated and operated in accordance with this and other applicable standards and in accordance with manufacturer's instructions.

DECIBEL (abbreviated as dB) - A logarithmic unit used in measuring the intensity of sound.

DOMESTIC POWER EQUIPMENT - Electrical, battery, gas or generator powered equipment intended for use in residential areas by a homeowner. (Examples include but are not limited to chain saws, log splitters, power saws, drills, grinders, lawn and garden tools.)

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

EMERGENCY WORK - Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

EMERGENCY VEHICLE - A vehicle used by police or fire departments, public safety and emergency medical personnel to respond to an emergency.

GROSS VEHICLE WEIGHT RATING (GVWR) - The value specified by the manufacturers as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separate, the gross combination weight ratings (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Hz - The abbreviation for hertz, a measurement of frequency, equivalent to cycles per second.

IMPULSE NOISE - A repeatedly applied sound of short duration [usually less than one (I) second] characterized by an abrupt onset and rapid decay and occurring at the rate of less than one (1) per second.

INDUSTRIAL USE - All uses included in the C-1 and. C-2 (Commercial-Industrial) Zoning Districts, as identified on the Zoning Map of the Town of Abington, Massachusetts, and as defined in the Zoning Bylaws of the Town of Abington, Massachusetts.

INLAND WATERS - All waters other than coastal waters.

LOT- A single or contiguous tract of land held in the same ownership throughout and defined by bounds or lot lines ascertainable by recorded deed or plan.

MOTOR VEHICLE - Any vehicle which is propelled by machinery which is permitted to operate on a public way including, but not limited to, passenger cars, trucks, buses, truck-trailers, semitrailers, campers, or racing vehicles, including motorcycles.

MUFFLER - A device for abating sounds such as those caused by escaping or in taking gases.

NIGHTTIME HOURS - The hours between 6:00 pm and 9:00am, all Sundays and Saturdays (and legally observed holidays). Saturday evening though Sunday morning.

NOISE LEVEL - The A-weighted sound-pressure level

NOISE POLLUTION - The presence of that amount of acoustic energy for that amount of time necessary to cause one (1) or more of the following effects:

(1) Temporary or permanent hearing loss in persons exposed

(2) Injury to or tendency to injure, on the basis of current information, the public health or welfare
(3) Nuisance
(4) Interference with the comfortable and reasonable enjoyment of life and property, or interference with the conduct of business
(5) Exceeding the limits or restrictions established herein or in any permit issues by the town

PERSON - An individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau or agency or any other entity recognized by law as the subject of rights and duties.

PREMISES - Any building, structure, lot or portion thereof, including all appurtenances, and includes yards, courts, inner yards and lots without buildings or improvements.

PROPERTY LINE - That real or imaginary line along the ground surface and its vertical extension which separates a lot from a contiguous lot or from a public right-of-way.

PUBLIC RIGHT-OF-WAY - Any street, way, highway, sidewalk, alley, park, waterway, railroad, or similar places owned or controlled by a governmental entity, including non-traveled portions.

PURE TONE - Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purpose of this chapter, a "pure tone" shall exist if an octave-band analysis indicates one (1) octave band three (3) dB or more above the band above and below.

RECREATIONAL VEHICLE - Any motor vehicle designed or modified for use over unimproved terrain used for recreation or pleasure, whether or not requiring motor vehicle registration, including, without limitation, all-terrain vehicles, motorized dirt bikes, dune buggies, and go-carts; all legally registered motor vehicles when used off a public way, including, without limitation, mopeds, motorcycles, and four-wheel drive vehicles; all motor vehicles designed to travel over ice or snow supported in whole or in part by skis, belts, or cleats, including, without limitation, snowmobiles; and all vessels propelled by machinery and designed to travel over water, including, without limitation, jet skis, surf jets, wet bikes, and motorboats as those terms are defined in General Laws Chapter 90B, § 20.

RESIDENTIAL USE – All uses included in the R-30 and R-43 Residential Districts, and R-87 Agricultural and Residential Zoning Districts, as identified on the Zoning Map of the Town of Abington, Massachusetts, and as defined in the Zoning Bylaws of the Town of Abington, Massachusetts.

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 evoke physiological sensations, including but not limited to an auditory response when impinging on the ear.

SOUND-LEVEL METER -Any instrument used to measure sound-pressure level, conforming, as a minimum, to the specifications of American National Standard (ANSI SI.4-1983) for Type 1 precision or Type 2 general purpose sound-level meters.

TECHNOLOGY USE – All uses included in the TB (Technology Business) Zoning District, as identified on the Zoning Map of the Town of Abington, Massachusetts and as defined in the Zoning Bylaws of the Town of Abington, Massachusetts.

ZONING DISTRICTS -The zoning districts and land uses therein as established by the Zoning Bylaws of the Town of Abington, Massachusetts.

SECTION 4: MEASUREMENT OF NOISE LEVELS

The Board of Health or its agent(s) will perform, oversee or provide instructions for all noise level measurements. As an option, the Board may require the party responsible for suspected excessive noise to hire a qualified sound engineer to undertake a study to quantify noise emanating from the premises and submit a written report of its study to the Board Noise level measurements will employ appropriate equipment that is properly calibrated to industry standards, as noted below. Noise levels shall be measured on the A-weighted scale of a noise meter at a distance of fifty (50) feet from its source, or at various distances from the noise source, or from the boundary of a property used for residential purposes, or any combination of these, and shall include measurement of pure tone, if appropriate. The precise location(s) of the measurement site(s), as well as date, time, duration of the noise(s) and noise level(s) measured will be recorded in a manner that is acceptable to the Board of health and will be made a permanent part of the Board of Health records.

For the purposes of determining sound levels as set forth in this section, the following guidelines shall be applicable:

(1) All persons conducting sound measurements to assess compliance with this section shall be trained in the current techniques and principles of sound measurement equipment and installation.

(2) Instruments used to measure sound level shall conform, as a minimum, to the specifications of American National Standard ANSI S1-4--1983 for Type 1 precision or Type 2 general purpose sound-level meters.

(3) The sound-level meter to be used for such measurements shall be capable of measuring and displaying values of noise intensity for established noise limits.

(4) The following steps, as listed below, shall be followed when preparing to take sound level measurements:

A.) The instrument manufacturer's specific instructions for the preparation and use of the instrument hall be followed

B.) The sound-level meter shall be calibrated before and after each set measurements

C.) Ambient background sound level shall be measured with the sound-level meter set for slow response

D.) Impulsive noise shall be made with the sound-level meter set for fast response

SECTION 5: NOISE THRESHOLDS

(1) Daytime threshold: During daytime hours (7:00am to 6:00pm on weekdays and between the hours of 9:00am and 6:00pm on Saturdays, Sundays, and legally observed holidays), no person or persons owning, leasing or controlling the operations of any source or sources of noise shall willfully,

negligently or through failure to provide necessary muffler equipment or facilities or through failure to take necessary precautions make or permit any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, commercial power equipment, construction device, recreational vehicle, motor vehicle or any other man-made source, if that noise, when recorded at a distance of fifty (50) feet from its source, exceeds levels shown in Table 1 for the applicable and use in the appropriate Zoning District. In addition, no person shall engage in any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, vehicle or any other man-made source if that noise is exceeds or is likely to exceed normal background noise levels by more than ten (10) dBA.

(2) Night time threshold: During nighttime hours [6:00pm to 9:00am Sunday through Saturday (and legally observed holidays). Saturday evening though Sunday morning], no person or persons owning, leasing or controlling the operations of any source or sources of noise shall willfully, negligently or through failure to provide necessary muffler equipment or facilities or through failure to take necessary precautions make or permit any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, commercial power equipment, construction device, recreational vehicle, motor vehicle or any other man-made source, if that noise, when recorded at a distance of fifty (50) feet from its source, exceeds levels shown in Table I for the applicable land use in the appropriate Zoning District. In addition, no person shall engage in any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, vehicle or any other man-made source if that noise exceeds or is likely to exceed normal background noise levels by more than five (5) dBA.

(3) High noise-level areas: In areas where the ambient sound level is already as high as or higher than three (3) dB below the sound-level limits of Table I, no person shall cause the noise level in any area to increase by more than three (3) dB. This limit is in lieu of Table 1, but shall not supersede any other noise limit as defined in this regulation.

(4) Pure tone threshold: For any source of noise which emits a pure tone, the dBA intensity set forth in Table I shall be reduced by five (5) dB.

Table 1

Noise thresholds applicable to a particular use and zoning district
**night time noise limits are 5 dB lower

Location:	Residential	Retail	Technology	Commercial/ Industrial
District:	R-30, R-43, R-83	B-1	Business TB	C-1, C-2
Daytime noise limit in dB	55 dB	55 dB	55dB	60 dB

Section 6: Prohibited Activities

(A) Vehicle horns: No person shall at any time unreasonably sound any horn or other audible signal device of a motor vehicle, except authorized emergency vehicles, unless such sounding is necessary as a warning to prevent or avoid a vehicle accident.

(B) Truck Idling: No person shall operate an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds GVW (gross vehicle weight) for a period in excess of five (5) minutes when such vehicle is parked on a residential premises or on a public way abutting a residential premises, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads nor to the operation of vehicles carrying products which must be kept refrigerated.

(C) Exhaust discharge: No person shall discharge into the air the blow-down of any steam, vent, or the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge is through a muffler capable of controlling the sound level within the limits stated in Table 1 of this regulation.

(D) Commercial trash collection: No person shall operate commercial trash compactors or collect rubbish from dumpsters or other receptacles using commercial vehicles over ten thousand (10,000) pounds after 9:00pm all days, before 7:00am on weekdays, and before 10:00am. on weekends and legal holidays.

(E) Outdoor music: No person owning or having care, custody or possession of any musical instrument, radio set, compact disc player, phonograph, "boom box", television or other machine or device for producing or reproducing sound to operate or use, or permit to be operated or used, such machine or device in such a manner as to disturb the peace and comfort of the neighboring inhabitants. The operation of any such machine or device between 10:00pm and 7:00am in such manner as to be plainly audible at a distance of twenty-five (25) feet from the building, structure or vehicle in which said machine or device is located, or in the case of a portable sound-producing device being carried or transported and operated in a public way so as to be heard more than twenty-five (25) feet from the machine or device, shall be prima facie evidence of a violation of this regulation, whether or not such operation conforms to the noise standard(s) elsewhere provided and set forth in this regulation. However, nothing contained in this section shall be construed to prohibit playing by a band or orchestra or use of a public-address system or a sound-producing machine in a hall or building or at an open-air event duly authorized and or licensed for the purpose of public assembly.

(F) Recreational vehicles: No person shall operate a motorized recreational vehicle, or permit the operation of one (1) or more such recreational vehicles, individually or in a group or in an organized event (racing, show, or otherwise), on any public right-of-way, on public or private property, or upon inland water in such a manner as to create a condition of noise pollution across a residential property line, the thresholds for noise pollution shall comply with Table 1.

(G) Motor Vehicles: No person shall operate either a motor vehicle or a combination of vehicles in such manner as to exceed the noise limit listed in. Table 2 for the category of motor vehicle operating on a roadway. Such noise will be measured in accordance with Section 4 of this regulation.

Table 2

Maximum Permitted Noise Level [dB(A)]

Vehicle over 10,000 pounds GVWR	**82-86dB**
All motorcycles	**82 dB**
Automobiles and light trucks	**75 dB**

a) This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this regulation. Every motor vehicle shall, at all times, be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dB(A) levels indicated in this section.

b) Every motor vehicle shall, at all times, be equipped with a muffler in a good working order and in constant operation to prevent noise which exceeds the dB(A) levels indicated in this section.

SECTION 7: EXEMPTIONS

Noise limits in this regulation shall not apply to noise emitted by or related to any of the following:

(1) Natural phenomena.

(2) Any bell or chime from any school or church

(3) Noncommercial public speaking and public assembly activities as guaranteed a state and federal constitutions.

(4) Devices used in conjunction with places of religious worship.

(5) Commercial snow plowing

(6) Any siren, whistle or bell lawfully used by emergency response vehicles, cleanup or repair work that is necessary to ensure that protection of public health, safety, or welfare.

(7) Any siren, whistle, or bell or other sound-generating device used by an alarm system relating to an emergency situation; provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful.

(7) Farming equipment or farming equipment activity.

(8) Any siren, whistle, or bell required by law regulation, which operated at a sound level appropriate to the environment.

(9) Noise from domestic power equipment operated between the hours of 7:00am and 7:00pm weekdays; Saturdays, Sundays, and legal holidays between the hours of 9:00am and 7:00pm.

(10) Noise created by an aircraft flight operations which are specifically preempted by the Federal Aviation Administration.

(11) Noise generated from general construction between 7:00am and 9:00pm on weekdays; between 9:00am and 10:00pm weekend and holidays. For construction activities within 100ft of an occupied domestic neighborhood, activities are between 7:00am and 7:00pm weekdays; between 9:00am and 7:00pm weekend and holidays. Impact construction work (pile driving, jackhammers, tractor trucks, etc.) shall be limited to 8:00am to 5:00pm on weekdays; between 9:00am and 5:00pm on weekend and holidays.

SECTION 8: WAIVERS

The Board of Health may waive the application of any provision of these regulations, unless otherwise prohibited by law, in any case when, in the opinion of the Board of Health, enforcement will do manifest injustice. Every request for a waiver shall be made in writing to the Board of Health, and shall be subject to a public hearing before the Board of Health. The requesting party must at his or her sole expense notify all abutters by certified mail at least ten (10) days prior to the public hearing. Any waiver granted by the Board of Health shall be in writing. Any denial of a waiver by the Board of Health shall also be in writing and shall contain a brief statement of the reasons for the denial.

SECTION 9: VIOLATIONS AND PENALTIES

If the Board of Health determines that a violation of this regulation is occurring or has occurred, it may issue a written notice of violation, and order the violator to cease and desist. Each day the violation continues after service of such written notice of violation constitutes a separate violation for which additional notices of violation are not required.

A notice of violation is deemed served on the day it is received, if served in hand or by certified mail, return receipt requested, and is deemed served on the third day after mailing, if served by first class mail, postage prepaid.

In addition to any other remedies available in law or equity and/or the Town's by-laws, including criminal penalties and/or injunctive relief, the Town may elect to enforce this regulation through non-criminal disposition. Any person violating this regulation may be issued a non-criminal fine of one hundred dollars ($100.00) for the first offense, two hundred dollars ($200.00) for the second offense and five hundred dollars ($500.00) for each subsequent offense if committed within one (1) year of the first offense.

SECTION 10: SEVERABILITY

If any section of this regulation or the application of such section to any person or circumstances shall be held invalid, the validity of the remainder of this regulation and the applicability of such section to other persons or circumstances shall not be affected thereby.

SECTION 11: EFFECTIVE DATE

These regulations shall take effect on 1/2/15, and are intended to apply to all pre-existing noise pollution as of that date.

VOTED on January 15, 2001.

ABINGTON BOARD OF HEALTH

Updated: July ---2014