

## Chapter 8.12

### Noise By-Law

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#### **8.12.010 Declaration of Policy.**

In order to control excessive noise in the Town of Tewksbury, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this By-Law.

#### **8.12.020 Applicability.**

This By-Law shall pertain to, but shall not be limited to, outdoor sound-amplifying equipment, motor vehicles, trucks, construction and demolition equipment, industrial and commercial sources of sound, and other man-made sounds that cause noise.

#### **8.12.030 Definitions.**

Except as may be specified herein, acoustical terminology used throughout this By-Law is that approved as American National Standard Acoustical Terminology [ANSI S1.1-1994] by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this By-Law shall have the meanings as indicated below:

(a) BACKGROUND SOUND LEVEL shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged Intruding Noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

(b) CONSTRUCTION shall mean those activities requiring a building permit. Construction shall also include any site preparation, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

(c) The abbreviation dBA shall mean the A-weighted sound pressure level expressed in decibels and referenced to 20 micropascals.

(d) EMERGENCY VEHICLE shall mean any vehicle operated in an effort to protect, provide or restore public safety, including ambulances, police vehicles and fire vehicles.

(e) EMERGENCY WORK shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.

(f) ENFORCING PERSON shall mean any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under Chapter 8.12 an enforcing person shall also include any authorized employee of the Office of Community Development.

(g) INTRUDING NOISE shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

(h)  $L_{eq}$ , equivalent sound level, is the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period, as measured with a sound level meter measuring  $L_{eq}$ .

(i) L10 LEVEL shall mean the A-Weighted sound level exceeded ten percent of the time.

(j) PERSON shall mean an individual or individuals, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

(k) PURE TONE: Any sound which can be distinctly heard as a single pitch or a set of single pitches, as defined by the EPA.

(l) SOUND LEVEL shall mean the instantaneous A-weighted sound pressure level, in decibels, as measured with a sound level meter set to the "A" weighting scale, slow response.

(m) SOUND LEVEL METER shall mean an instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

#### **8.12.040 Designated Land Use Areas**

The properties hereinafter described are hereby assigned to the following noise zones:

Land Use Area I: All Residential Properties and the grounds of any school, day care, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery.

Land Use Area II: All other properties.

**8.12.050 Exterior Noise Standards**

It shall be a violation of this bylaw for any person at any location within the area of the Town to create Intruding Noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use. Daytime measurements are to be determined at an L10 level provided that at no time shall the exterior sound level in Land Use Area I and II exceed 90dBA or cause a PURE TONE condition for the receiving land use category.

Table I. Maximum Allowable Exterior Sound Level

Land Use Area	Daytime level 7:00 AM to 10:00 PM	Nighttime Level 10:00 PM to 7:00 AM
I	60 dBA	50 dBA
II	70 dBA	65 dBA

If the Intruding Noise is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

**8.12.060 Special Provisions**

Limitation of Construction Activity: Noise associated with Construction is permitted between 7:00 AM and 7:00 PM on weekdays and Saturdays.

Noise associated with the following activities shall be exempted from the provisions of this By-Law:

- (a) Emergency Work or Emergency Vehicles;
- (b) Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events, and on church grounds, including but not limited to, bells or chimes and activities at the Tewksbury State Hospital, including but not limited to, the sounding of the horn, also known as the 'fire horn';

- (c) Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- (d) The maintenance of real property (not Construction), such as the temporary use of power tools and equipment such as lawn mowers, snow blowers, chain saws and similar equipment, provided said activities take place between the hours of 7:00 AM and 10:00 PM on any day.

#### **8.12.070 Prima Facie Violation**

Any measured noise exceeding the sound level standards as specified in Sections 8.12.050 Exterior Noise Standards shall be deemed to be prima facie evidence of a violation of the provisions of this By-Law.

#### **8.12.080 Penalties for Violations**

(a) Violations under Chapter 8.12, in the discretion of the enforcing person, may be enforced by non-criminal disposition as provided in Chapter 40, Section 21D of the Massachusetts General Laws ("Section 21D").

(b) The penalty for a violation under 8.12.050 Exterior Noise Standards shall be \$25 for a first offense next after the first warning, \$100 for a second offense, \$200 for a third offense, and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.

(c) The penalty for a violation under 8.12.060 Special Provisions, Noise associated with construction, shall be \$50 for a first offense next after the first warning, \$100 for a second offense, \$300 for a third offense, and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under 8.12.060, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.

(d) An enforcing person taking cognizance of a violation of this By-Law or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof for the non-criminal disposition thereof in accordance with the provision of Chapter 40, Section 21D of the Massachusetts General Laws. The provisions of Section 21D are incorporated by this reference.

#### **8.12.090 Manner of Enforcement**

(a) Violations of this Chapter shall be prosecuted in the same manner as other violations of the Tewksbury General By-Laws provided, however, that in the event of an initial violation of the provision of this By-Law, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of

the violation has been removed or fully-corrected within the time period specified in the written notice.

(b) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a complaint.

**8.12.100 Severability**

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.