

Sponsor: Mayor Bilbrough  
First Reading: 1-4-2021  
Second Reading: 1-21-2021

**ORDINANCE #57-20**

**AN ORDINANCE REPEALING ORDINANCE #2-11 AND ADOPTING IN ITS PLACE THEREOF A NOISE CONTROL ORDINANCE OF THE TOWN OF WYOMING**

**WHEREAS**, Sections 18.1 and 18.2 of the Charter of the Town of Wyoming authorize the Town to “[e]nact ordinances to preserve the health of the Town” and to “prevent, abate, and remove all nuisances, obstructions, unsanitary conditions, or any other condition detrimental to the public safety, health, and welfare”;

**WHEREAS**, the Town Council of the Town of Wyoming finds that excessively loud and/or repetitive noises can be detrimental to the public health, safety, and welfare; and

**WHEREAS**, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to adopt updated and revised regulations governing excessive noises in the Town of Wyoming.

**NOW THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance #2-11 “An Ordinance Regulating Excess Noise in the Town of Wyoming” be and hereby is repealed in its entirety and a new ordinance is enacted, as follows, to wit:

**NOISE CONTROL ORDINANCE OF THE TOWN OF WYOMING**

**Section 1. Purpose and Intent.** The Town hereby finds that excessive levels of sound are detrimental to the physical, mental and social well-being of citizens of the Town of Wyoming, as well as to their comfort, living conditions, general welfare and safety. People have a right to and should be ensured an environment free from excessive sound of any type that may endanger the health, welfare or safety of citizens or jeopardize the value of the property and erode the integrity of the environment of the city. The Town hereby declares it to be necessary to provide for the greater good and more effective regulation of excessive sounds through the adoption of this Ordinance.

**Section 2. Definitions.** The following terms as used in this ordinance shall be defined as follows. All terminology used in this ordinance, not defined herein, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) and the Acoustical Society of America (ASA) as referenced in this ordinance.

**CONSTRUCTION** – Operating or causing to be operated any equipment used in the building, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto.

**CONTINUOUS NOISE** — A noise whose intensity remains essentially constant during the period of observation.

**DECIBEL (db)** — A standard unit for measuring the sound pressure level. The unit of sound

magnitude equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure being measured to a reference sound pressure, 20 micronewtons per square meter (20 micropascals).

DECIBEL A-WEIGHTED (dBA) — The sound level, in decibels, measured with the sound level meter using the A-weighted network or scale as specified in ANSI S1.4-1974 Specification for Sound Level Meters, or its latest version.

EQUIVALENT SOUND LEVEL (A-WEIGHTED) — The constant sound level that, in a given situation and time period (x) conveys the sound energy as the actual time-varying A-weighted sound. Designated  $Leq(x)$  dB(A).

IMPULSIVE NOISE — Noise characterized by brief excursions (usually less than one second) of sound pressure which significantly exceeds the ambient environmental sound pressure.

MOBILE SOURCE — Any vehicle, self-propelled or not, which is capable of emitting noise.

NOISE — The intensity, frequency, duration and character of sounds from a single source or number of sources. "Noise" includes the amplified and unamplified human voice, vibrations of audible and subaudible frequency, including but not limited to, the bass sound from amplified music, without limitations.

NOISE DISTURBANCE — Any sound which:

- A. Endangers or injures the safety or health of humans or animals; or
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Is in excess of the allowable noise levels established in Section 3.

PLAINLY AUDIBLE — Any sound that can be detected by a person using his/her unaided hearing faculties, such as, but not limited to, spoken speech or comprehensible musical rhythms, including bass tones with a repetitive and impulsive sound.

SOUND — Any auditory effect that is distinctive or characteristic of its source. "Sound," as used in this article, shall encompass the definition of noise herein.

STATIONARY SOURCE — Any equipment or activity associated with permitted land uses which are capable of generating noise.

### **Section 3. Maximum Noise Levels and Specific Noise Disturbances.**

No person shall cause, suffer, allow or permit the operation of any source of noise in such a manner as to create a noise disturbance. By way of example and not limitation, the following constitute noise disturbances and are prohibited.

#### *A. Maximum Permissible Noise Levels.*

- (1) Noise levels from stationary sources and mobile sources while stationary exceeding the noise levels set forth in Table 1 below shall constitute a noise disturbance. Where residential and non-residential properties are involved, the maximum noise level for the residential property shall apply.
- (2) Any impulsive noise which repeats four or more times in any hour shall not exceed 80 dBA.

**Table 1. MAXIMUM PERMISSIBLE NOISE LEVELS FOR CONTINUOUS NOISE**

Zoning Classification	Time of Day	
Residential Districts	Sunday through Thursday, 7:00 am to 10:00 pm	57 dBA
	Friday and Saturday, 7:00 a.m. to 11:00 p.m.	57 dBA
	All other times of the day or night	50 dBA
Non-Residential Districts	Sunday through Thursday, 7:00 am to 10:00 pm	65 dBA
	Friday and Saturday, 7:00 a.m. to 11:00 p.m.	65 dBA
	All other times of the day or night	55 dBA

- B. *Radios, television sets, musical instruments, and similar devices.* Operating or permitting the use or operation of any radio receiving set, musical instrument(s), television, phonographs, drum or other device for the production or reproduction of sound in such a manner as to cause a noise disturbance is prohibited. Operating or permitting the operation of any such device between the hours of 10:00 p.m. and the following 7:00 a.m. in such a manner as to be plainly audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at 50 feet from such device when operated within a motor vehicle on a public right-of-way or on a public space constitutes a noise disturbance.
- C. Yelling, shouting, hooting, or whistling on public streets between the hours of 9:00 p.m. and 7:00 a.m. in such a manner which constitutes a noise disturbance.
- D. *Power equipment.* Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors in residentially zoned districts between the hours of 8:00 p.m. and 7:00 a.m. the following day, in such a manner as to create a noise disturbance.
- E. *Animals.* It shall be unlawful for any person to allow any domesticated or caged animal to create a sound which constitutes a noise disturbance. It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

**Section 4. Specific noise regulations.**

*A. Motor Vehicles.*

- (1) No person shall drive a motor vehicle, including a motorcycle, on any highway, street, road, or alley in the Town of Wyoming, unless such motor vehicle or motorcycle is equipped with a muffler in good working order and in accordance with manufacturer’s specifications and in constant operation to prevent excessive or unusual noise.
- (2) No person shall use a “muffler cutout” on any motor vehicle.
- (3) No person shall drive a commercial vehicle equipped with an engine compression brake device on any highway, street, road, or alley in the Town of Wyoming unless such commercial vehicle is also equipped with a muffler in good working order and in accordance with manufacturer’s specifications and

in constant operation to prevent excessive noise. For the purposes of this section, "engine compression brake device" shall mean any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

B. *Aircraft and railroad noise limits.* All aircraft and railroads operating within the confines of the Town of Wyoming shall comply with all applicable federal and state noise regulations.

C. *Construction noise.*

(1) All reasonable procedures shall be undertaken to minimize noise generated by construction activities.

(2) In no instance shall noise levels originating from construction sites exceed 94 dBA. This section shall not apply to emergency repairs to public utilities.

(3) Construction shall only occur on Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. Construction shall only occur between 9:00 a.m. and 5:00 p.m. on any Saturday, Sunday or the following State of Delaware holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Nothing contained herein shall prevent any property owner from working within his/her own property boundaries, provided that such work is done by the property owner.

#### **Section 5. Noise measurement.**

A. The use of a decibel meter shall only be required to determine noise disturbances that are measured based on the decibels of the noise. The reading shall be taken no closer than the property line of the sound source.

B. Noise measurements made to determine compliance with this ordinance shall be made no less than four feet above the ground and no closer than the property line of the property on which the noise source is located. For a noise originating from a public right-of-way, unless otherwise expressly indicated herein, the noise measurement shall be made from the closest property line to the source of the noise.

#### **Section 6. Exemptions and Special Waivers.**

A. The following uses and activities shall be exempt from noise level regulations:

(1) Emergency or warning signals, devices, or vehicles, either as an alert or in the performance of emergency work.

(2) Municipally sponsored or approved celebrations or events.

(3) Bells, chimes, or carillons while being used for religious purposes or in conjunction with religious services, or for national celebrations or public holidays.

(4) Noises resulting from the provision of municipal services (i.e. trash collection, public improvements or public utilities construction or repair).

(5) Parades, public gatherings, or other activities permitted by law and/or for which a temporary special waiver has been issued.

(6) Unamplified human voices and crowd noises, except as prohibited by Section

3.C.

- (7) Lawn maintenance equipment when it is functioning within the manufacturer's specifications and with all mufflers and noise reducing equipment in use and in properly operating condition between the hours of 8:00 a.m. and 8:00 p.m.
- (8) Amplified announcements and electronically amplified announcements at athletic events.

B. *Exemptions for time to comply.* Upon good cause shown by the property owner or other party responsible for any noise source, the Town Council shall have the power to grant an exemption from the requirement of this ordinance in order to allow sufficient time for installation of needed control equipment, facilities, or modifications to achieve compliance, not to exceed ten days, provided that such exemption may be renewed as necessary, but only if satisfactory progress towards compliance is shown. A request for exemption shall be filed in writing with the Town Council.

C. *Temporary special waivers.*

- (1) The Town Council may grant temporary special waivers, not to exceed 90 days, to the terms of this Ordinance, which may be granted for up to two additional 90-day extensions.
- (2) Any person seeking a temporary special waiver shall file a written application with the Town, which shall contain information demonstrating that bringing the source of sound or activity for which the waiver is sought into compliance with the ordinance would constitute an unreasonable hardship on the applicant or community. The Town Council shall balance the hardship to the applicant, the community, and other persons of not granting the waiver against the adverse impact on the health, safety and welfare of the persons or property affected, and any other adverse impacts of granting the waiver.
- (3) Temporary special waivers shall be granted by notice to the applicant and may include any conditions deemed necessary by the Town Council, including time limits on the permitted activity. Noncompliance with any condition of the temporary special waiver shall terminate it and subject the person holding it to those provisions of this ordinance.

**Section 7. Violations and penalties.**

A. This ordinance shall be enforced by the chief of police or his/her designee(s).

B. *Penalties.*

- (1) Any person or persons to whom a citation is issued for a violation of this ordinance shall be subject to a fine for the first offense of at least \$100.00 and not to exceed \$500.00. For each subsequent offense, such person shall be subject to a fine of at least \$250.00 and not to exceed \$750.00.
- (2) When a warning or citation is issued for a violation occurring at a property not occupied by the owner, if the owner is also given written notice of the warning or citation, the property owner will be presumed to be responsible for any subsequent violations occurring within the 12 months following the initial warning or citation

and, in addition to the person committing the violation, may be cited directly by the police department for any such violations.

- (3) The citation shall be deemed to be properly served upon the person or persons responsible for the noise under any section of this ordinance if a copy thereof is delivered to the owner or agent personally; or by leaving the notice at the usual place of residence or business, in the presence of someone of suitable age and discretion who shall be informed of the contents thereof, or by certified mail addressed to the owner or agent or other person charged with violating this ordinance at the last known address with the return receipt requested.
- (4) In addition to the penalties listed in this section, the Town shall have the authority, upon conviction, consistent with this ordinance, to revoke any building permit where an owner has failed to demonstrate compliance with this ordinance after 60 days notification to the owner regarding the intent to revoke said building permit.

**Section 8. General provisions.**

- A. *Severability.* If any of the sections, paragraphs, sentences, clauses and phrases of this ordinance shall be declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of the ordinance.
- B. *Effective date.* This ordinance shall take effect after the second reading and approval by the town council.

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**SYNOPSIS**

This ordinance establishes noise control regulations in the Town of Wyoming by setting forth maximum decibel levels for continuous and impulsive noises. This ordinance additionally prohibits noises that endanger or injure the safety or health of humans or animals or annoy or disturb reasonable persons of normal sensitivities. This ordinance establishes specific limitations for noises originating from specific sources, such as radios, television sets, power equipment, animals, and yelling and shouting. This ordinance regulates the manner in which motor vehicles are to be operated and construction activities are to take place in order to minimize noise disturbances. Noise measurements are to occur using specific procedures outlined in this ordinance, and various noises are exempted from the standards contained in the ordinance. Individuals may apply to the Town Council for temporary special waivers, and penalties for violations of the ordinance are established. Any landlord given notice of a warning or citation issued under this ordinance may be cited directly by the town for any subsequent violations occurring at his/her property within the following 12 months.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on January 21, 2021.

Attest: *Debra Lindale*  
Town Clerk

So Certifies:  
*Stacy*  
Mayor

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This shall certify that a copy of this Ordinance was posted at the Town Hall on *January 22*, 2021.

1-22-2021  
Date

So Certifies:  
*Norman Jamar*