

DRAFT LOCAL LAW NO. ____ OF 2019

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO
AMEND CHAPTER 149 AND CHAPTER 223 SECTION 29 OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to amend Chapter 149 and Chapter 223 Section 29 of Code of the City of Beacon, concerning noise regulations.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 149 of the Code of the City of Beacon entitled “Noise” is hereby amended as follows:

§ 149-1 Title.

This ~~chapter~~Chapter shall be known and cited as the "City of Beacon Noise Control Law."

§ 149-2 Legislative Intent.

The intent of this ~~chapter~~Chapter is to supersede the present Noise Control Law of the City of Beacon by the enactment of the following provisions, definitions and standards for noise elimination or abatement in the City of Beacon.

§ 149-3 Findings and declarations.

It is hereby found and declared that:

- A. The making, creation or maintenance of loud, unnatural or unusual noises, which are prolonged and unnatural in their time, place and use, affect and are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the City of Beacon.
- B. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare, and the peace and quiet of the City of Beacon and its inhabitants.

§ 149-4 Definitions.

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

AFFECTED PERSON

Any person who has lodged a Noise complaint with the Building Department or Police Department 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 SOUND

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 potential violation of this eChapter 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.

BOOMBOX

Self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

COMMERCIAL DISTRICT

All commercial districts as defined § 223-2 of the Code of the City of Beacon.

COMMON WALL BUILDING

Any building wherein there are two or more dwelling units.

COMMERCIAL AREA

A group of commercial facilities and the abutting public rights-of-way and public spaces.

COMMERCIAL FACILITY

Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- A. Banking or other financial institutions.
- B. Dining establishments.
- C. Establishments providing retail services.
- D. Establishments providing wholesale services.
- E. Establishments for recreation and entertainment, including the serving of alcohol.
- F. Office buildings.
- G. Transportation.
- H. Warehouses.
- I. Establishments providing commercial living accommodations and commercial property used for human habitation, when such is the source of the sound under investigation.

COMMERCIAL SCHOOL

An educational or training establishment operated for a business, including the instruction of

~~language, dance, fine or applied arts, martial arts, business computers, trades, vocations or similar activity.~~

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

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 occur over a period of time with a duration of one second or longer shall be measured as continuous sound.

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.

dba

The sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). The "A" weighting network discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear.

DECIBEL

The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base of 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated as "dB."

DEMOLITION

Any dismantling, intentional destruction or removal of buildings or structures.

EMERGENCY WORK

Any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

EXTRANEIOUS 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 potential violation of this chapter. 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 sound level 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.

INDUSTRIAL DISTRICT

All industrial districts as defined in § 223-2 of the Code of the City of Beacon.

IMPULSE SOUND

Any sound with a rapid onset and rapid decay with either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

~~INDUSTRIAL FACILITY~~

~~Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.~~

LEGAL HOLIDAYS

New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

MOTORIZED EQUIPMENT

Any power equipment utilizing an electric or internal-combustion engine.

MOTOR VEHICLE

Any vehicle that is propelled or drawn on land by an engine or motor.

MUFFLER

A sound-dissipative device or system for abating the sounds of escaping gasses of an internal-combustion engine.

~~MULTI DWELLING UNIT BUILDING~~

~~Any building wherein there are two or more dwelling units.~~

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:

- A. 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
- B. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent thereto.

~~MUSIC AMPLIFIED CARS~~

~~A personal or commercial vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.~~

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 CONTROL ADMINISTRATOR

The Code Enforcement Officer, the Building Inspector of the City of Beacon or the City of Beacon Police Department.

NOISE DISTURBANCE

Any sound that ~~exceeds the permissible levels of this chapter, and:~~

- A. Endangers the safety or health of any person.
- B. Disturbs a reasonable person of normal sensitivities, or.
- C. Endangers personal or real property.
- ~~D. Affects persons in the City of Beacon under subsection A, B, or C and is from a sound source located outside the City of Beacon city limits.~~

OUTDOOR SOUND

Sound or noise originating or emanating from outside a building or structure.

PERSON

Any individual, corporation, company, association, society, firm, partnership or joint-stock company.

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 sound production 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.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or parking lot used by members of the general public.

PUBLIC SPACE

Any real property or structures therein that are either owned, leased or controlled by a governmental entity or used by members of the general public. Public space includes but is not limited to parks, sports fields or lots.

REAL PROPERTY LINE

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 common wall 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).

~~Either the imaginary line, including its vertical extension, that separates one parcel of real property from another or the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.~~

RESIDENTIAL AREA

~~A group of residential properties and the abutting public rights-of-way and public spaces.~~

RESIDENTIAL PROPERTY

Property used for human habitation, including but not limited to:

- A. Private property used for human habitation.
- B. Commercial living accommodations and commercial property used for human habitation.
- C. Recreational and entertainment property used for human habitation.
- D. Community service property used for human habitation.
- E. Hospitals, long-term medical or residential care facilities.

SCHOOL

~~Other than a commercial school, any place of education or instruction, college, university, theological seminary, convent, monastery, day-care center, children's day camp and religious retreat.~~

SOUND LEVEL

Unless otherwise stated, ~~T~~he sound pressure level measured in decibels with a sound level meter set for A-weighting; sound level is expressed in dBA.

SOUND-LEVEL METER

An instrument used to measure sound level which conforms to Type 1 or Type 2 standards specified by ~~ANSI Specifications S1.4-1974~~ the American National Standards Institute "Specifications for Sound Level Meters" S1.4-1984 (or subsequent revisions).

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.

WEEKDAY

Any day that is not a legal holiday, beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKDAY NIGHT

Sunday night through Thursday night, excluding nights preceding legal holidays.

WEEKEND

Begins on Friday at 6:00 p.m. and ends on the following Monday at 7:00 a.m.

WEEKEND NIGHT

Friday and Saturday nights and the nights preceding legal holidays

§ 149-5 Noise disturbance prohibited.

It shall be unlawful for any person to make, continue, cause or allow, orally or mechanically, any noise disturbance affecting persons in the City of Beacon.

- A. The general standards to be considered in determining whether such noise disturbance exists include, but are not limited to, the following:

- (1) The intensity of the noise under investigation for violation of this Chapter.
- (2) Whether the nature of the noise is usual or unusual.
- (3) Whether the origin of the noise is natural or unnatural.
- (4) The volume and intensity of the ambient noise, if any.
- (5) The proximity of the noise to parks or other public places, hospitals, nursing homes, day-care centers or schools, and houses of worship.
- (6) The nature and the zoning district of the area within which the noise emanates.
- (7) Whether the noise trespasses into a residential dwelling and infringes on the ability of an affected person to repose or sleep, or trespasses into a commercial establishment and infringes on the ability of an affected person to conduct normal business activities.
- (8) The time of day or night the noise occurs.
- (9) The duration of the noise.
- (10) Whether the sound source is temporary.
- (11) Whether the noise is continuous or impulsive.
- (12) The presence of discrete tones
- (13) Whether the emission of the noise is purposeful or unnecessary and serves no legitimate purpose.

§ 149-6 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 1, when measured at or within the property line of an affected person.

- (1) Continuous Sound. The limit in Table 1 may not be exceeded in three or more measurement periods within any one-hour period. Each measurement period must be no less than one half minute. 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 1
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS
BY RECEIVING LAND USE
dB(A)

<u>Residential¹</u> <u>7:00 AM – 10:00 PM</u>	<u>Residential</u> <u>10:00 PM – 7 AM</u>	<u>Commercial</u> <u>24 hours</u>	<u>Industrial</u> <u>24 hours</u>
<u>OUTDOORS</u>			

<u>60</u>	<u>50</u>	<u>65</u>	<u>70</u>
<u>INDOORS²</u>			
<u>50</u>	<u>40</u>	<u>55</u>	<u>60</u>

1. If the residential receptor is within a commercial or industrial district, or within 200 feet of such a district, the permissible sound level limits in Table 1 are increased by 5 dB(A) during daytime hours. This increase in limit shall not apply to the sound emissions of a Sound Production Device operated by a commercial facility after 8:00 PM on nights before days that the Beacon City School District is in session (i.e. “a school night”).
2. Indoor measurements for compliance with Table 1 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 common wall 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:

- (a) No person shall make, cause, allow or permit the operation of any impulsive source of sound that has a maximum sound level in excess of eighty (80) dBA, when measured at or within the real property line of an affected person. If an impulsive sound occurs more frequently than ten (10) times in any half hour the levels set forth in Table 1 shall apply. At nighttime, if an impulsive sound occurs more frequently than four (4) times in any half hour the levels set forth in Table 1 shall apply.
- (b) If measurements of impulsive sound are conducted indoors, the permissible limit is sixty (60) dBA. If an impulsive sound occurs more frequently than ten (10) times in any half hour the levels set forth in Table 1 shall apply. At nighttime, if an impulsive sound occurs more frequently than four (4) times in any half hour the levels set forth in Table 1 shall apply.

§ 149-6-7 Specific prohibited acts, restricted uses and activities:-

In addition to the general prohibitions set out above and the maximum permissible sound levels set out in Tables 1, and unless otherwise exempted in this eChapter, the following specific acts are hereby declared to be in violation of this eChapter. The following acts are declared to be a violation of § 149-5 when exceeding the sound limits in Table I of this chapter. This enumeration shall not be deemed to be exclusive.

- A. Sound ~~production devices-reproduction systems~~: operating, playing or permitting the operation or playing of any ~~radio, phonograph, tape player, compact disc player, television, receiver or similar device that reproduces or amplifies sound, or sound produced orally~~ sound production device, in such a manner as to create a noise disturbance ~~as measured at or within~~ the property line ~~of for any affected person other than the operator of the device. The owner of the establishment from which the sound is released and the person transmitting the sound are separately liable for a violation of this chapter. Commercial facilities, such as dining, recreation or entertainment facilities keep their doors and windows closed during hours of operation except as necessary for entrance or egress.~~

- (1) Prima facie evidence of a violation of this section and the creation of a noise disturbance shall include but not be limited to the operation of such a device between the hours of 10:00 PM and 7:00 AM in such a manner that it is plainly audible inside the dwelling of an affected person.
- (4)(2) The limits in Table I shall also apply at all times. -
- B. No commercial facility shall operate, play, or permit the operation or playing of any sound production device outdoors, without first obtaining a permit pursuant to § 149-10. Commercial facilities operating playing or permitting the operation or playing of any sound production device indoors, shall keep their doors and windows closed- at all times , except as necessary for entrance or egress
- C. Loudspeakers and public-address systems ~~mounted outdoors or indoors within 10 feet of an open door or window~~: using or operating any loudspeaker, public-address system or similar device ~~is prohibited~~ between the hours of 10:00 p.m. and 79:00 a.m. of the following day. ~~such that the sound therefrom creates a noise disturbance across a residential real property line as measured at the property line.~~
- ~~C. Animals and birds: owning, possessing or harboring any animal or bird that frequently or for a continued duration makes or creates a noise disturbance across a residential real property line as measured at the property line. A noise disturbance includes an animal or bird emitting a noise disturbance continually for 10 minutes or intermittently for 30 minutes.~~
- GD. Animals: it shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which creates a noise disturbance or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the noise disturbance when ordered to do so by a -Noise Control Officer or Noise Control Investigator Administrator. Prima facie evidence of a violation of this section shall include but not be limited to:
- (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
- (4)(2) Vocalizing for ten (10) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.
- (3) It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.
- DE. Loading and unloading: loading, unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form between the hours of 10:00 p.m. and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential real property line ~~as measured at the property line~~ of an affected person.
- EF. Motor vehicles: The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation.

- ~~(1) Operating or permitting the operation of any motor vehicle, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any sixty-minute period- while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet of a residential area, or operating or permitting the operation of any motor vehicle~~ so out of repair or in such a condition as to create a noise disturbance.
- (42) No motor vehicle may be operated without a properly functioning muffler on a public right-of-way. Ty.
- ~~(2) The operation of a vehicle which is unmuffled or is equipped with straight pipes is a violation of this chapterChapter.~~
- ~~It shall be unlawful to operate a car radio or car stereo so that the sound produced exceeds the sound level limits in Table I at a distance of 25 or more feet from the vehicle.~~
- ~~(3) 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.~~
- ~~(4) 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.~~
- ~~(35) The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation.~~
- (46) The horn or signaling device on any motor vehicle may not be operated, except when used as a danger or traffic warning signal, and such operation must terminate when the danger has passed.
- ~~(57) It shall be unlawful for a motor vehicle to audibly sound a false alarm.~~
- (67) An exterior alarm of a motor vehicle must not audibly sound for more than five minutes continuously or 10 minutes intermittently. While operating within these parameters, the limits in Table 1 do not apply.
- ~~(8) It shall be unlawful to create a noise or disturbance or operate a motor vehicle in such a manner as to cause excessive squealing or other excessive noise of the tires.~~

~~FG.~~ Construction, repair and demolition: excluding emergency work, operating or permitting the operation of any tool or equipment used in construction, repair, demolition or excavation shall not be permitted between the hours of ~~7~~8:00 p.m. and ~~7~~8:00 a.m. on any day unless it can meet the limits in Table 1. At all other times the limits set forth in Table 1 do not apply. ~~Such operation does not constitute a violation if the tool or equipment is used in an emergency situation.~~ This section shall not apply to ~~the following activities so long as they are operating within the time and volume parameters set forth by this chapter:~~ road maintenance/ improvement on preexisting roads or preventative maintenance on the sewer mains and pipes, on which daytime construction would prove disruptive to traffic flow. All motorized equipment

used in construction and demolition activity shall be operated with a muffler.

- ~~GH.~~ Power tools: operating power tools used for landscaping and yard maintenance, excluding emergency work, within 200 feet of a residential property line shall not be permitted between the hours of 7:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends or legal holidays, unless such activities can meet the limits set forth in Table I. All motorized equipment used in these activities shall be operated with a muffler. ~~The limits set forth in Table I notwithstanding, the sound levels from these power tools may not exceed 70 dBA when measured at the property line of an affected person, for a duration exceeding, at or within the property line of an affected person, 15 minutes continuously or 30 minutes intermittently in any single day, between the hours of 8:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 9:00 p.m. on weekends or legal holidays. At all other times, the limits in Table 1 do not apply.~~
- ~~HI.~~ Self-contained, portable, non-vehicular music or sound production devices shall not be operated in any public space or public right-of-way in such a manner as to be plainly audible at a distance of 25 feet in any direction from the operator. ~~Sound devices on public transportation: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, cell phone, television receiver or similar device on or in any method of public transportation in such a manner that the sound from such device is audible to any other person.~~
- ~~IJ.~~ Miscellaneous sound producers: creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, whistle, shout, bell, musical instrument, tool or engine.
- ~~KJ.~~ The operation of a standby or portable generator is exempt from the limits in this eChapter when there is a power outage. The regular testing/exercising of a generator must be conducted during weekdays between the hours of 8:00 AM and 4:00 PM and for the minimum duration suggested by the manufacturer. During such testing the sound level limit shall be 70 dBA at the property line of any affected person. The permissible limits in Table 1 apply to the operation of generators tested outside of the prescribed hours or operated when there is no power outage. No person shall at any time operate a generator during nighttime hours in a Residential District unless there is a power outage. Generators used on a permitted construction site may not exceed 65 dBA at the property line of any affected person.
- ~~LK.~~ Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a frequent, repetitive or continuous noise disturbance across the real property line of an affected person or between the hours of 10:00 PM and 8:00 AM. When these activities are conducted between 8:00 AM and 10:00 PM, and do not cause a noise disturbance, the limits in Table 1 do not apply.

~~§ 149-7 Prima facie evidence of noise disturbance.~~

~~The following shall be considered prima facie evidence of a noise disturbance:~~

- ~~A. A sound level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 55 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.~~
- ~~B. A sound level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 45 dBA during the time period~~

~~commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.~~

- ~~C. A sound level reading taken at a residential property line, arising from another residential property, above 70 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.~~
- ~~D. A sound level reading taken at a residential property line, arising from another residential property, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.~~
- ~~E. A sound level reading taken at a residential property line, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 70 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.~~
- ~~F. A sound level reading taken at a residential property line, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.~~
- ~~G. A sound level reading taken at a commercial property line at any time, arising from any property source, above 70 dBA.~~
- ~~H. A sound level reading taken at an industrial property line at any time, arising from any property source, above 70 dBA.~~

§ 149-8 Exemptions.

The following sounds are exempt from the restrictions of this ~~chapter~~Chapter:

- A. Sounds from motorized equipment such as power tools, lawn mowers and garden equipment when operated ~~between the hours of 9:00 a.m. and 8:00 p.m.~~between the hours of 8:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 9:00 p.m. on weekends or legal holidays., ~~provided that they produce less than 70 dBA at any property line of a residential property.~~
- B. Sound from ~~the~~the bells or chimes, which may include electronic devices that imitate the sound of bells or chimes of a church, synagogue or other house of worship, while being used in conjunction with religious services.
- C. Sound from a snow blower, snow thrower, electric snow shovel or snowplow used for the purpose of snow removal.
- D. Sound from an exterior burglar alarm of any building ~~or motor vehicle~~, provided that such alarm shall terminate within 15 minutes after it has been activated.
- E. Sound used for the purposes of alerting a person of an emergency.
- F. Sound from the performance of emergency work.
- G. Sound from a municipally sponsored or approved celebration or event or one for which a permit has been issued by the city. Permitted events are subject to the conditions of the permit, which may include restrictions on the hours of operation and alternative sound level limits.

~~G.H.~~ National warning system (NAWAS); systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane.

~~H.I.~~ Sounds from municipal-sponsored projects, work or repairs as ordered by the ~~City Engineer or City Highway Superintendent~~ City Administrator, or his or her designee.

~~J.~~ ~~Emergency generators which may be used during a power failure.~~ J. Motor vehicles on public roadways otherwise in compliance with §149-7F.

K. The unamplified human voice is exempt from the sound level limits of this eChapter, however, it may be determined that an individual is creating a noise disturbance pursuant to § 149-5.

L. Surface carriers engaged in commerce by railroad.

M. Noise of aircraft flight operations.

§ 149-9 Sound level measurement procedures and calculation of corrected source sound level.

For the purpose of determining sound level as set forth in this eChapter, 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. Provisions of this eChapter that do not require sound measurements may be enforced by any officer of the City of Beacon Building Department and Beacon Police Department.

B. Sound level meters and calibrators used to conduct measurements shall conform to the definitions of this eChapter.

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.

D. The general steps listed below shall be followed when conducting sound level measurements:

(1) A field calibration check of the sound level meter shall be 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.

(2) 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.

(3) 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.

- ~~(4) Unless otherwise specified in this Chapter, sound level measurements or observations shall be conducted 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.~~
- ~~(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 investigator, should represent a location on that property which would see regular use by the affected person during the day, or be within 25 feet of the residential structure at night. The maximum sound level meter reading shall be noted during each period of observation, which is observably resulting from sound emissions of the source under investigation. The reported levels shall exclude 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 open or 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 that 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 § 149-10 B) 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 maximum sound level meter reading shall be noted during the periods of observation, excluding extraneous sounds.~~
- ~~(9) Measurements of continuous sound are conducted with the meter set for slow response and measurements of impulse sound are conducted with the meter set for fast or impulse response.~~

~~E. The Corrected Source Sound Level shall be calculated by subtracting the Ambient Sound Level from the Total Sound Level, as per Table 2, below. This procedure is utilized to determine compliance with the limits in Table 1.~~

TABLE 2
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 2

Step 1: Subtract the Ambient Sound Level from the Total Sound Level.

Step 2: Refer to Table 2 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.

~~EF. 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 in Table 1 and the measured Ambient Sound Levels.~~

~~§ 149-9 Sound level limits.~~

Table I

Maximum Permissible Sound Level Limits

	<u>Residential</u> <u>(7:00 a.m. to 10:00 p.m.)</u>	<u>Residential</u> <u>(10:00 p.m. to 7:00 a.m.)</u>	<u>Commercial</u> <u>(24 hours)</u>	<u>Industrial</u> <u>(24 hours)</u>
<u>Outdoors</u>	<u>70</u>	<u>50</u>	<u>70*</u>	<u>70*</u>

Table I-

Maximum Permissible Sound Level Limits

	Residential- (7:00 a.m. to 10:00 p.m.)-	Residential- (10:00 p.m. to 7:00 a.m.)-	Commercial- (24 hours)-	Industrial- (24 hours)-
(dBA)				
Indoors	55	45	55*	65*

(dBA)

NOTES:

* Does not pertain to levels identified in § 149-7E and F

§ 149-109 Inspections.

- A. For the purpose of determining compliance with the provisions of this eChapter, the Noise Control Administrator or his or her 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 Noise Control Administrator or his or her 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.
- 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 Noise Control Administrator 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.
- D. 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 eChapter.

§ 149-10 Application for noise permitsvariance:

- A. A. No person shall own, operate, or create a sound source as described in this section without having first obtained a noise permit from the City of Beacon, covering outdoor music operations

at commercial facilities or ~~the~~ specific celebrations or operations described herein. Applications for permits shall be made to the Building Department, on a form provided by the Building Department of the City of Beacon, and shall be reviewed and approved by the City Administrator, Chief of Police and Building Inspector. The City shall have the power to impose restrictions and conditions upon any sound source site.

B. For purposes of this section, the following sound sources shall require permit approval from the City of Beacon:

- (1) Any commercial facility operating, playing or permitting the operation or playing of any sound production device outdoors.
- (2) Private or public celebrations. Any person seeking to hold a public or private celebration which may violate provisions of this Chapter shall require a permit from the City of Beacon. The permit shall enumerate the specific date(s) and times for which the permit is valid and may establish specific sound level limits that apply during the period of the permit which may not be exceeded at the nearest affected residential or noise sensitive property. A private or public celebration in a public space may require additional approval from the City of Beacon Recreation Department. A noise permit shall be required, except where such noise permit is required in connection with any special event permit defined in § 211-13.2, in which case a separate noise permit shall not be required.
- (3) Construction projects outside of permissible hours. Applications for after-hours construction permits shall include an explanation as to why the construction could not be completed during regular hours, as well as a presentation of adequate proof that compliance with this Chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public.

C. -Applicants for permits under § 149-10B(1) above, must file for a permit with the Building Department prior to January 1. The City may, in its sole discretion, accept applications submitted after January 1 upon good cause shown for not timely submitting Said permit shall be valid for one year unless or until suspended or revoked. The permit year shall run from January 1 to December 31 of each calendar year. Every permit holder shall post the permit conspicuously within the facility. No permit issued under the provisions of this Chapter may be transferred or assigned from one owner to another owner or from one establishment to another establishment.

D. -Applicants for permits under § 149-10B(2) and § 149-10B(3) above, shall submit an application to the Building Department at least 30 days prior to the proposed occurrence/event, which shall include the information set forth in § 149-10.E. Additional information may be required in order for the application to be considered complete and ready for review. The City may, in its sole discretion, accept applications on less than 30 days notice upon good cause shown for not timely submitting

~~Any sound producer adversely affected by a provision of this chapter may apply to the Building Inspector for a variance from such provision.~~

~~A.E.~~ B. In addition to any requirements set forth in § 149-10B, Applications for a variance-noise permit shall set forth the following information: The applicant's failure to supply the foregoing information shall be cause for rejection of the application.

- (1) The name and address of the applicant.

- (2) The name and location of the noise source for which such application is made.
- (3) The reason for which the ~~permit~~variance is requested, including the hardship that will result to the applicant or the public if the ~~variance~~permit is not granted.
- (4) The nature and intensity of noise that will occur during the period of the ~~variance~~permit.
- (5) The section or sections of this ~~chapter~~Chapter to which the ~~variance~~permit shall apply.
- ~~(6) A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring from the noise.~~
- ~~(7) A specific time schedule of noise control measures.~~
- ~~(8) A presentation of adequate proof that noise levels occurring during the period of the variance will not constitute a danger to public health.~~
- ~~(9) A presentation of adequate proof that compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public.~~

~~DC. The applicant's failure to supply the foregoing information shall be cause for rejection of the application.~~

F. Notice requirements. Notice of any application under § 149-10.B(2) and § 149-10.B(3) shall be mailed by the applicant, on a form provided by the City, by certified mail, return receipt requested, to all property owners of record within 200 feet of the boundaries of the property on which the proposed activity/event will be conducted. A list of the names to whom notice of the application was sent and proof of such mailing shall be submitted to the Building Department as part of the application prior to issuance of any permit under this Section.

G. ~~E~~. Permit Fee. A permit fee as set forth on the City of Beacon fee schedule shall be required.

H. —The following factors shall be taken into consideration when determining said noise permit application:

- (1) The character and degree of injury to, or interference with, the health and welfare of the reasonable use of property which is caused or threatened to be caused by the sound to result from the permit.
- (2) The social and economic value of the activity for which the permit is sought.
- ~~(4)~~(3) The ability of the applicant to apply best practical noise control measures, if appropriate.
- (4) The number of permits issued to the applicant.
- (5) The number of permits issued permitting sound source operations at the subject property.
- (6) The number of previous noise complaints received in connection with the operation of any sound source at the subject property.

- ~~I. F.—The permit shall enumerate the specific dates and times for which the permit is valid and may establish specific sound level limits which may not be exceeded at the nearest affected residential or noise sensitive property, that apply during the period of the permit.~~
- ~~J. G.—If the noise permit is denied, the reasons for the denial shall be provided to the applicant in writing.~~
- ~~K. —A permit issued pursuant to § 149-10B(2) and § 149-10B(3), may be revoked by the Building Inspector, Chief of Police and/or City Administrator if:~~
- ~~(1) There is a violation of one or more conditions of the permit, including but not limited to sound level limits specified in the permit; or~~
 - ~~(2) There is a material misrepresentation of fact in the permit application; or~~
 - ~~(3) There is a material change in any of the circumstances relied upon in granting the permit.~~
- ~~L. Any permit issued to any commercial establishment may be revoked, suspended or modified by the Building Department of the City of Beacon for cause, after written notice to the permit holder and/or property owner, and after an opportunity for the permit holder and/or property owner to be heard by the Building Department, upon a finding by the Building Department that any provision of this Chapter or the permit has been violated.~~

~~**§ 149-11 Fee; duration of variance; filing and availability of variance.**~~

- ~~A. The Building Inspector shall charge the applicant for the variance a fee as set forth in the City of Beacon fee schedule. [Amended 7-6-2010 by L.L. No. 10-2010]~~
- ~~B. The duration of the variance shall not exceed one year and may be limited by the Building Inspector to any period of time up to one year.~~
- ~~C. A copy of the variance shall be on file with the City of Beacon Building Department and available to the public.~~

~~**§ 149-12 Factors considered in approval of variance.**~~

~~In granting the application for a variance, the Building Inspector shall consider:~~

- ~~A. The character and degree of injury to or interference with the health and welfare or use of the property which is affected.~~
- ~~B. The social and economic value of the activity for which the variance is sought.~~
- ~~C. The ability of the applicant to apply the best practical noise control measures.~~

~~**§ 149-13 Revocation of variance.**~~

~~The variance may be revoked by the Building Inspector if:~~

- ~~A. There is a violation of one or more conditions of the variance; or~~
- ~~B. There is a material misrepresentation of fact in the variance application; or~~
- ~~C. There is a material change in any of the circumstances relied upon by the Building Inspector in~~

~~granting the variance.~~

~~§ 149-14-12 Permit required for sound-producing devices in public areas.~~

~~No person shall operate, use or permit operation of any sound-producing device on or in front of any public right-of-way or public space without a permit from the Police Chief of the City of Beacon Police Department. Such permit shall be issued in accordance with such rules and conditions as the Chief may prescribe, including restrictions on the hours of operation and alternative sound level limits.~~

~~§ 149-131 Revocation of permit.~~

~~The permit may be revoked by the Building Inspector, Chief of Police and/or City Administrator if:~~

- ~~A. There is a violation of one or more conditions of the permit, including but not limited to sound level limits specified in the permit; or~~
- ~~B. There is a material misrepresentation of fact in the permit application; or~~
- ~~C. There is a material change in any of the circumstances relied upon in granting the permit.~~

~~§ 149-15 Revocation of permit.~~

~~A variance issued pursuant to § 149-10 of this chapter may be revoked by the Police Chief of the City of Beacon Police Department for persistent violations of this chapter or a single violation of this chapter exceeding the permitted decibel level by 10 or greater dBA.~~

§ 149-11. Enforcement

~~The Code Enforcement Officer, or the Building Inspector of the City of Beacon or any police agency with jurisdiction in the City of Beacon~~the City of Beacon Police Department is hereby empowered and authorized to exercise such powers as may be necessary or convenient to carry out theand effectuate the purposes and provisions of this eChapter.

~~§ 149-16 Abatement orders.~~

- ~~A. A police officer of the City of Beacon may issue an order requiring abatement of any source of sound in violation of this chapter.~~
- ~~B. Such directed abatement must be made within a reasonable time period and in accordance with the conditions prescribed by the officer.~~

~~§ 149-17 Issuance of appearance ticket.~~

~~Violation of any provision of this chapter or of an abatement order shall be cause for an appearance ticket to be issued by a police officer of the City of Beacon.~~

~~§ 149-18-12 Penalties for offenses.~~

- ~~A. Any violation of this chapter shall be punished as prescribed in § 1-3.~~

~~Any violation of any provision of this chapter or violation of a lawful abatement order shall constitute an offense.~~

- ~~A. For a first offense, a fine of \$50 shall be imposed.~~
 - ~~B. For a second offense occurring within one year of the first offense, a fine of up to \$150 may be imposed for each such additional violation.~~
 - ~~C. For a third or further violation, imprisonment for up to 320 days may be imposed in addition to a fine of up to \$150.~~
 - A. B. If the sound source found to be in violation is a sound production device, each separate hour in which a violation of this eChapter exists may shall constitute a separate violation.
 - C. The owner of the property and/or the owner of the a commercial establishment from which sound is emitted and the person causing the generation of the sound are separately liable for a violation of this eChapter.
-

Section 2. Chapter 223, Section 29 of the Code of the City of Beacon entitled “Noise” is hereby deleted in its entirety as follows:

~~§ 223-29 Noise~~

- ~~A. Method of measurement. For the purpose of measuring the intensity and frequencies of sound sound-level meters and octave-band filters shall be employed. Octave-band analyzers calibrated with pre-1960 octave bands (American Standards Association 224.10 — 1953 Octave Band Filter Set) shall be used. Sounds of short duration which cannot be measured accurately with the sound-level meter shall be measured with an impact noise filter in order to determine the peak value of the impact.~~
- ~~B. Maximum permitted sound-pressure level. The decibels resulting from any use activity, whether open or enclosed, shall not exceed, at any point on or beyond any lot line, the maximum decibel level for the designated octave band as set forth in the following table, except that, where the lot lies within 200 feet of a residence district, whether within or without the City, the maximum permitted decibel level at any point on or beyond the district boundary shall be reduced by six decibels from the maximum permitted level set forth in the table and further except that such reduction shall also apply to any sound emitted between the hours of 9:00 p.m. and 7:00 a.m. and all day Sundays.~~

Octave Band (cycles per second)	Sound Pressure Level (decibels)
0 to 74	66
75 to 149	58
150 to 299	55
300 to 599	50
600 to 1,199	45
1,200 to 2,399	42
2,400 to 4,799	38
4,800 to 20,000	35

- ~~C. Exemptions. The following uses and activities shall be exempt from the noise level regulations:~~
- ~~(1) Noises not directly under the control of the property user.~~
 - ~~(2) Noises emanating from construction and maintenance activities between 8:00 a.m. and sunset.~~
 - ~~(3) The noises of safety signals, warning devices, emergency pressure-relief valves or other emergency warning signals.~~
 - ~~(4) Transient noises of moving sources, such as automobiles, trucks, airplanes and railroads.~~

Section 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 149 and Chapter 223 of the Code of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “ Local Law” shall be changed to “ Chapter,” “ Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 5. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 6. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.