

Chapter 9.20

UNNECESSARY NOISE

Sections:

- 9.20.010 Unnecessary noises generally prohibited.
- 9.20.020 Auto body repair.
- 9.20.030 Power-driven machinery and portable gasoline engine-powered blowers requiring permits.
- 9.20.035 Construction.
- 9.20.040 Musical instruments.
- 9.20.050 Animals and fowl.
- 9.20.060 Holidays defined.
- 9.20.070 Exhaust pipe required for gasoline, etc., motor.
- 9.20.080 Loudspeakers.
- 9.20.090 Permit required when no other procedure is applicable.
- 9.20.100 Violations—Criminal penalties.

9.20.010 Unnecessary noises generally prohibited.

No person shall make, cause, suffer or permit to be made or caused, upon any premises owned, occupied or controlled by such person, or upon any public roadway, sidewalk, path or public right-of-way, any unnecessary noises or sounds which are annoying to persons of ordinary sensitiveness, which are loud and raucous or which are so harsh or so prolonged, or unnatural, or unusual in their intensity, time or place of occurrence as to occasion discomfort to the inhabitants of this town or any number thereof.

If any section, subsection, sentence, clause, phrase, or portion of this section for any reason is held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this section. The town council further declares that it would have passed this and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared unconstitutional on their face or as applied (Ord. 599, 2007: Ord. 267 §4(part), 1967: prior code §4350).

9.20.020 Auto body repair. No person shall at any time repair any auto body or fender unless within a completely enclosed building and the noises from the repairs are reasonably confined within and to the building. (Ord. 267 §4(part), 1967: prior code §4351 (part)).

9.20.030 Power-driven machinery and portable gasoline engine-powered blowers requiring permits. (a) It is unlawful for any person within the town limits to operate any portable gasoline powered machine to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces.

Notwithstanding the prohibition of this subsection, the director of public works may issue permits to property owners to use gasoline engine powered blowers between the hours of nine a.m. to five p.m. Monday through Friday, provided the noise level of the blower to be used measures less than seventy-two decibels at no more than fifty feet distance, and provided a hardship or special circumstance is shown based on either (1) infirmity; or (2) property size

greater than one acre. A permit may be issued only if contiguous neighbors do not object.

(b) It is unlawful for any person within the town limits to engage in the use of power-driven machinery or equipment for yardwork activity before eight a.m. or after five p.m., Monday through Friday of each week and not at any time on Saturday, Sunday, or other holidays listed in Section 9.20.060; except that:

The use of power-driven machinery or equipment operated solely by the owner of the property for yardwork is allowed on Saturdays between the hours of nine-thirty a.m. and four p.m. Power mowers only may be used by gardeners working on Saturdays between the hours of nine-thirty a.m. and four p.m..

The director of public works may, on a finding of good cause, grant written exceptions to these time limitations. Such permission must be obtained prior to the commencement of any work outside the prescribed hours.

Emergency Situations. Power equipment may be used at any time should an act of nature create a dangerous or hazardous situation.

(c) The public safety department may issue citations to property owners of one hundred dollars per offense for violations of this section. (Ord. 554, 2000; Ord. 553 (part), 2000; Ord. 515 §2, 1993; Ord. 477 §1, 1990; Ord. 465 §1, 1988; Ord. 267 §4(part), 1967: prior code §4351(part)).

9.20.035 Construction. (a) It is unlawful for any person or construction company within the town limits to perform any construction operation before eight a.m. or after five p.m., Monday through Friday of each week and not at any time on Saturday, Sunday, or the other holidays listed in Section 9.20.060; except that:

(1) Work done solely in the interior of a building or structure, the performance of which does not create any noise which is audible from the exterior of the building or structure; or

(2) Work actually physically performed solely by the owner of the property, on Saturday between the hours of ten a.m. and four p.m. and not at any time on Sundays or other holidays listed in Section 9.20.060 herein;

Upon issuance of a building permit property owners and construction company representatives for the project will be issued a copy of the ordinance codified in this section.

(b) Fines for violations:

(1) First Offense. The public safety department will issue a warning.

(2) Second Offense. A citation will be issued to the property owner or the construction company representative. A fine of two hundred fifty dollars will be levied.

(3) Third Offense. A citation will be issued to the property owner or the construction company representative. A fine of five hundred dollars will be levied.

(4) Fourth Offense. A citation will be issued to the property owner or the construction company representative. A fine of seven hundred fifty dollars will be levied.

(5) Fifth Offense. A citation will be issued to the property owner or the construction company representative. A fine of one thousand dollars will be levied.

(6) Sixth Offense. The job will be red tagged and work suspended pending a show cause hearing by the town council. (Ord. 553 (part), 2000).

9.20.040 Musical instruments. (a) No person shall at any time use or operate any musical instrument, or any device, machine, apparatus, or instrument for the intensification or amplification of the human voice or any sound or noise, in such a manner that persons owning, using, or occupying property in the neighborhood are reasonably disturbed or annoyed.

(b) In no case shall such musical instruments, devices, machines, apparatuses, or instruments used for the intensification or amplification of the human voice or any sound or noise, be operated such that they are audible beyond the owner's property line before nine a.m., or after ten p.m., except on Friday, Saturday, or the eve of a federally recognized holiday when the allowable hours of operation shall be between nine a.m. and eleven p.m.

When determining whether a person has been reasonably annoyed or disturbed, factors for consideration shall include, but not be limited to the volume, nature, frequency, time of day, and planned duration of the offending instrument(s), as well as the number of complaints received. (Ord. 574, 2003: Ord. 267 §4(part), 1967: prior code §4351 (part)).

9.20.050 Animals and fowl. No person shall at any time keep or maintain any animal, crowing rooster or fowl which by any sound or cry annoys or disturbs persons owning, using or occupying property in the neighborhood. (Ord. 267 §4(part), 1967: prior code §4351 (part)).

9.20.060 Holidays defined. Where used above, holidays are defined as New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

If any named holiday falls on a Sunday, the following Monday shall be considered the holiday for the purposes of this section. If any named holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday for purposes of this section.

If any subsection, sentence, clause, phrase, or portion of this section for any reason is held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this section. The town council further declares that it would have passed this and each subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or portions be declared unconstitutional on their face or as applied. (Ord. 594, 2006: Ord. 553 (part), 2000: Ord. 267 §4(part), 1967: prior code §4351 (part)).

9.20.070 Exhaust pipe required for gasoline, etc., motor. No person having charge or control of any engine in which gas, gasoline, distillate or other similar substance is used as motive power, shall run or operate the engine, or cause it to be run or operated, without having the exhaust pipe thereof connected with an underground air chamber or having attached to the exhaust pipe a muffler or other device so constructed as to deaden the sound of the exhaust from making any loud noise or disturbing the peace and quiet of persons in its vicinity; provided, that this section shall not apply to motor vehicles, except when used in a stationary position for the purpose of supplying power other than for their own movement. (Ord. 267 §4(part), 1967: prior code §4352).

9.20.080 Loudspeakers. It is unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate a loudspeaker or amplifying device in a fixed or movable position or mounted upon any vehicle within the town for the purpose of giving instructions, directions, talks, addresses, or lectures to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without a permit so to do from the chief of police. The chief of police in granting or denying the permit, shall consider the constitutional right of free speech of all persons, including the

applicant, but shall also consider the volume of traffic, both vehicular and pedestrian, and the effect, if any, of granting the permit upon the orderly movement of traffic, the peaceable passage or presence of persons in, on, to or across the street, alley, sidewalk, park, place or public property, the possible invasion of the right of privacy, the threat of the overthrow of the lawful, the established government, or agency or a portion thereof by force and the possible unlawful breach or disturbance of the public peace if the permit is granted. The chief of police shall grant or deny the permit after considering such matters. (Ord. 267 §4(part), 1967: prior code §4353).

9.20.090 Permit required when no other procedure is applicable. Unless other procedures are specifically provided in the particular sections of this chapter, a permit may be issued authorizing noises prohibited by this chapter whenever it is found the public interest will be served thereby. Applications for permits shall be in writing and shall be accompanied by an application fee in the amount of five dollars and shall set forth in detail the facts showing that the public interest will be served by the issuance of the permit. Applications shall be made to the building inspector; provided, however, with respect to work upon or involving the use of a public street, alley, building or other public place under the jurisdiction of the department of public works. No permits shall be issued unless the application is first approved by the department of public works, the chief of police and the town clerk. Anyone dissatisfied with the denial of a permit may appeal to the council. (Ord. 267 §4(part), 1967: prior code §4354).

9.20.100 Violations--Criminal penalties. Any violation of the provisions of this chapter, in addition to any other remedy, constitutes a public nuisance and such nuisance may be abated as provided by law. Any person violating the provisions of this chapter shall be guilty of an infraction or misdemeanor. Violations of this chapter which are of a continuing nature shall constitute a separate offense for each and every day of such continuing violation. (Ord. 465 §2, 1988).