

**PORTSMOUTH TOWN COUNCIL MEETING  
FEBRUARY 8, 2016  
AGENDA**

7:00 PM - TOWN COUNCIL CHAMBERS, TOWN HALL, 2200 EAST MAIN ROAD

PLEDGE OF ALLEGIANCE

SITTING AS THE PORTSMOUTH TOWN COUNCIL

SITTING AS THE BOARD OF LICENSE COMMISSIONERS

1. Victualler License - New Annual

Samantha's Seafood, 108 Chase Road, Portsmouth, RI. Owner: Eric Hyson, 40 Redwood Road, Tiverton, RI

Documents: [Samanthas Seafood.pdf](#)

ADJOURN

PRESIDENT'S EXECUTIVE SUMMARY

MINUTES

TCM 1/23/16  
TCM 1/25/16 and Exec.

Documents: [M 1-23-16 - Draft.pdf](#), [M 1-25-16 - Draft.pdf](#)

BILLS

Documents: [Bill List.pdf](#)

TAX VOUCHERS

None

TOWN ADMINISTRATOR'S REPORT

1. League of Cities and Towns Convention
2. Status of Financial Audit
3. Status of Tank Farm Study
4. Wind Turbine Project Update
5. Department Updates

RESIGNATIONS AND APPOINTMENTS

1. Resignations/Requests Not To Be Reappointed:
    - a. Dog Park Planning Committee - J. Eline, G. Kinnunen
- Documents: [J Eline G Kinnunen.pdf](#)

- b. Design Review Board - G. Graham, G. Yalanis, M. Camera  
Documents: [G Graham.pdf](#), [G Yalanis.pdf](#), [M Camera.pdf](#)

2. Appointments:

- a. Lower Glen Farm Preservation Committee (Re-Appnt.) - P. Richtmyer, B. Plante  
Documents: [P Richtmyer.pdf](#), [B Plante.pdf](#)
- b. Agriculture Committee (Re-Appnt.) - A. Fiore, N. Parker Wilson  
Documents: [A Fiore.pdf](#), [N Parker Wilson.pdf](#)

**OLD BUSINESS**

- 1. PUBLIC HEARING: Discussion/Action - Proposed Amendments To Chapter 257 Of The Portsmouth Town Code - Noise Ordinance: §257-5 Exceptions, Section L And §257-18 Sound Variances, Section C (Continued From: 12/14/15)  
Documents: [Noise Ordinance Amendment.pdf](#), [Chapter 257 Noise Ordinance.pdf](#), [Noise Ordinance Ad.pdf](#), [Summary Of Noise Ordinances - Towns.pdf](#), [Noise Ordinances - Towns.pdf](#), [TCM Minutes 5-7-2008.Pdf](#), [Zoning Ordinance Amendment 2008-05-07A.pdf](#)
  - a. Petitioner's Memorandum 12/8/2015. / R. Lantz, Owner, Bill's Sales Firewood & A. Thayer, Esq., Sayer, Regan & Thayer  
Documents: [Bills Sales Petitioner Memorandum.pdf](#)
  - b. Petitioner's Memorandum 2/2/2016. / R. Lantz, Owner, Bill's Sales Firewood & A. Thayer, Esq., Sayer, Regan & Thayer  
Documents: [Petitioner Memorandum Part 1.Pdf](#), [Petitioner Memorandum Part 2.Pdf](#)
  - c. Objection To The Noise Variance Request 12/7/2015. / Mr. & Mrs. Tarney Waring, 30 Crossing Court  
Documents: [Objection To Noise Variance.pdf](#)
  - d. Addendum To Objection To The Noise Variance Request 2/1/2016. / Mr. & Mrs. Tarney Waring, 30 Crossing Court  
Documents: [Addendum To Objection.pdf](#)
  - e. Letter Of Support Of Bill's Sales Request For A Commercial Sound Variance For Sound Beyond Its Property Line Of 75 Decibels From 7:00 AM To 6:00 PM During Their Business Days. / W. McGlenn, General Manager And Chief Engineer, Portsmouth Water And Fire District  
Documents: [Water And Fire District Support.pdf](#)
- 2. Request To Withdraw The Resolution To The Portsmouth Legislators To Extend Council Authority Over The Tax Stabilization Program. / L. Fitzmorris, Portsmouth Concerned Citizens (10)  
Documents: [Tax Stabilization.pdf](#), [TCM Minutes 11-9-15.Pdf](#), [Tax Stabilization Program.pdf](#)

**NEW BUSINESS**

- 1. Request From School Department To Have A Member Of The Town Council Sit In On Labor Negotiations With The NEA. / K. Hamilton (5) (No Backup)
- 2. Request Permission To Place An Insert, With A Dog Park Update, In The Annual Dog License Renewal Letters. / B. Miller, Chair, Dog Park Planning Committee (5)

Documents: [Dog Park Insert.pdf](#)

3. Request Approval To Amend Resolution #2015-01-29 - Exemption From Taxation Of The Real Estate Of Certain Income Eligible Senior Citizens. / M. Helfand (5)

Documents: [Resolution - Amendment Tax Exemption.pdf](#)

### **FUTURE MEETINGS**

February 22 7:00 PM - Town Council Meeting

March 14 7:00 PM - Town Council Meeting

### **EXECUTIVE SESSION**

1. RIGL 42-46-5(a)(5) - Discussions or Considerations Related to the Acquisition or Lease of Real Property for Public Purposes Wherein Advanced Public Information would be Detrimental to the Public Interest.

### **ADJOURN**

### **RETURN TO OPEN SESSION**

### **OPEN SESSION**

### **ADJOURN**

The public is welcome to any meeting of the Town's boards or its committees. If communication assistance (readers/interpreters/captions) is needed or any other accommodation to ensure equal participation, please contact the Town Clerk's Office at 683-2101 at least (3) business days prior to the meeting.

POSTED 2/4/16

TOWN OF PORTSMOUTH, RHODE ISLAND



RECEIVED  
PORTSMOUTH, R.I.

VICTUALLER LICENSE APPLICATION

710 FEB -21 A 9:34

JOANNE M. MOWER

To The Town Council: The applicant, whose signature appears below, respectfully petitions your Honorable Body for a Victualler License. DATE: 1/31/16

ANNUAL LICENSE:  SPECIFIC EVENT LICENSE:  EVENT DATE: \_\_\_\_\_

EVENT TYPE: \_\_\_\_\_

EVENT LOCATION: \_\_\_\_\_

OWNER/CORP/LLC NAME: Eric Hyson

CONTACT PERSON: Eric Hyson DOB: 7/20/70

OWNER/CORP/LLC ADDRESS: 40 Redwood Rd.  
Tiverton, RI 02878

OWNER PHONE: 508-916-1057 BUSINESS PHONE: \_\_\_\_\_

BUSINESS NAME D/B/A/: Samantha's Seafood

BUSINESS ADDRESS: 108 Chase Rd.  
Portsmouth, RI 02871

TYPE OF BUSINESS: Restaurant

Hours of Operation: Open from 11 to 10 (Monday - Saturday) from 11 to 7 (Sunday)

Are the Premises: Owned  or Leased  Located in Shopping Center N (Y/N) Unit# \_\_\_\_\_

STATE TAX # 06-177680700 or FEDERAL ID # 06-1776807

AUTHORIZED SIGNATURE: Eric Hyson TITLE: owner

FOR OFFICE USE ONLY: FEE: <u>50</u>	DATE PAID: <u>2/2</u>	TAXES PAID: <u>new</u>
BOARD OF HEALTH CERT: _____	MENU: _____	EMER. CONTACT FORM: <input checked="" type="checkbox"/>
LIQUOR LIC. APPL: _____	APPROVALS: POLICE: _____	FIRE: _____
INSPECTION: _____	COUNCIL MEETING: <u>2/8</u>	DATE GRANTED: _____
DATE ISSUED: _____		

rec 4 #  
50812

PORTSMOUTH TOWN COUNCIL MEETING

Saturday,  
JANUARY 23, 2016

8:00 AM – PORTSMOUTH HIGH SCHOOL LIBRARY, 120 EDUCATION LANE

MEMBERS PRESENT: Keith E. Hamilton, James A. Seveney, Kevin M. Aguiar,  
Michael A. Buddemeyer, David M. Gleason, Elizabeth A. Pedro  
and Joseph W. Robicheau

ALSO PRESENT: School Committee Members Terri-Denise Cortvriend, Emily Copeland,  
Frederick Faerber, III, Andrew V. Kelly, Allen Shers,  
Thomas R. Vadney, and John Wojichowski

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was followed by a Moment of Silence for our men and women around the world in harm's way.

SITTING AS THE PORTSMOUTH TOWN COUNCIL

NEW BUSINESS

NB 1 - Joint Town Council/School Committee Budget Discussion  
a. Presentation/Discussion – Budget Strategy and Planning

Town Finance Director, James Lathrop and School Department Finance Director, Chris DiIuro gave a presentation on the status of the Town and possible budget needs:

- The Town's infrastructure. The Town Hall not being large enough for staff and the need for more offices. Plans to move Recreation to the Brown House.
- The need for a new phone service.
- Public Safety - The need for a new police station with service bays, a larger fire station or a second one, a Prudence Island police (public safety officer) sub-station, salt sheds for the DPW, and road management.
- Lower Glen Farm, Elmhurst Park, Bristol Ferry and Weaver Cove.
- The Town increasing revenues and the tax collection rates.
- The Town's health costs will be up by \$300,000 and the Schools up \$500,000, the ARC payments will be up \$300,000 combined with schools; OPEB liability is up, and there are outstanding Litigations: \$700,000 - \$1.2 million. There is the need to set aside \$250,000 to help pay for them.
- The Town plans to improve technology by turning on fiber optics with OSHEAN; virtualizing servers; updating telephone systems; and management systems.
- In regards to staffing, the Town needs to change job descriptions by 2016; with training of skills; succession planning; and improving communications. There is the possibility of hiring more seasonal help.

- The School Department's infrastructure.
- Health and safety issues.
- A new RIDE construction application 5% reimbursement to the Town.
- Boiler replacements at PHS and PMS.
- The need for lighting efficiency throughout the schools.
- The need for roof replacements in the future (5-yr. plan).
- The Administration is running out of space and they hope to move to PMS and the need for a storage facility.
- State Aid and Group Home Aid decreased
- Little Compton tuition increased due to more students,
- Pre-K program in Melville adds \$30,000 for "Models" to attend.
- Costs to have a Safety Officer at schools will add \$40,000; a Student Assistance Counsellor (DARE) will add \$19,000; and the busing contract bid is up 14% adding \$250,000.
- Plans are for maintaining and updating computer networks; with a pilot program of 1 to 1 devices at PMS; and a request in the operating budget for leasing, the issue of contact to internet when not at school (possibly at the Brown House).
- DMC, educational consultants, will be evaluating staffing levels at PHS & PMS. The NEA contract expires this year. And safety emergency preparedness needs to be reviewed.

Mr. Seveney asked about the IT broadband deal with OSHEAN and if Portsmouth will get any of the \$30,000 grant for Aquidneck Island. Mr. Lathrop replied Corey Mendes is investigating.

Mr. Wojichowski asked about the turbine and the schools having to purchase electricity. Mr. Lathrop said it will kick in at the end of Direct Energy's contract.

Mr. Lathrop answered Mr. Vadney's question about the Pension Plan 6.57% (using our model) = 61%; (using the state model) = 78%. He replied to Mr. Seveney's question if a rolling average is used, yes, market to market, a 5 year rolling, and he is hoping the market stabilizes.

Mr. Lathrop replied to Mr. Seveney's question that once we file this year we should be at 60% and out of critical status by the State. As to the school department, he believes the schools will come back at 2 to 2.5%.

Mr. DiIuro answered Mr. Seveney, the school will come in for end of year about the same, no surprise surplus.

Mr. Lathrop stated the audit is complete but there are still some issues with the auditor.

Mr. DeIuro responded to Ms. Cortvriend's question about capital and surplus that once the boilers are paid for at PHS and PMS we'll be at \$500,000. After lighting there will be \$200,000 left in the capital fund and \$300,000 in OPEB restricted account.

BREAK: 8:52 a.m.  
RETURN: 9:24 a.m.

Senator Pagliarini arrived. President Hamilton announced that Representatives Canario, Edwards and Gallison could not attend but sent their regrets. Representative Reilly arrived later.

## NB 2. Discussion/Action - Legislative Priorities for 2016

The following represents a consolidated list of Portsmouth Town Council and School Committee proposed 2016 Legislative Agenda priorities for discussion.

### **Town Council**

The Town Council reviewed the proposed list and voted on which items should remain as priorities.

1. Sakonnet River Bridge: Continue our strong opposition to any toll structure imposed on the Sakonnet River Bridge.

- a. Remove existing toll gantry.

A motion by Mr. Seveney, seconded by Mr. Buddemeyer, to approve. All voted in favor of the motion.

2. Oppose a Statewide Tolling Program: Reject any legislation that proposes statewide tolling.

- a. Fight to reject any legislation that proposes to injure commercial transportation in RI.

A motion by Ms. Pedro, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

3. Funding to examine Insurance Reimbursement Rates of Ambulance Cost: Rhode Island reimbursement rates are 24-40% lower than other New England communities. Most RI municipality ambulance service is provided by the local fire department. The cost of maintaining these programs outweighs the revenue. Improved revenue from the insurance companies will help in this area, particularly in many struggling fire districts.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

4. Compassion Center: Impose a tax on compassion centers. The tax could be used to fund:

- a. School Resource Officer Programs.
- b. Reestablish State funding for DARE and drug prevention programs

A motion by Mr. Gleason, seconded by Ms. Pedro, to approve as amended: b. should read: “Re-establish State funding for DARE and for drug prevention and treatment programs.” All voted in favor of the motion.

5. Binding Arbitration: Repeal binding arbitration laws.

- a. Repeal Binding Arbitration for public safety collective bargaining agreements.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

6. School Funding:

- a. Modify the School Surplus law to allow schools to maintain 5% of budget as fund balance.
- b. Increase State funding levels for RI schools, particularly Special Education.

A motion by Mr. Hamilton, seconded by Mr. Robicheau, to drop the percentage from 5 percent to 1 ½ percent. The motion carried with Ms. Pedro opposed.

A motion by Ms. Pedro, seconded by Mr. Seveney, to approve as amended. All voted in favor of the motion.

7. TAX on Social Security and military Pensions:

- a. Fight for the removal of income tax on Social Security and military pensions
- b. Increase the property tax exemptions for veterans and seniors.

A motion by Mr. Seveney, seconded by Mr. Gleason, to approve. All voted in favor of the motion.

8. Support business growth in RI: Fight for an income tax exemption or statewide stabilization plan to help encourage business growth and relocation in RI.

President Hamilton stated that we need to develop a “better” East Bay Career Vocational Center perhaps at vacant Raytheon buildings: trades – electrical, welding.

Mr. Robicheau added making Town even more attractive to settle in and a huge plus for the economy of Town and East Bay.

Superintendent Riley stated that our schools are working on CTE’s. She cautioned these programs siphon off students (and we lose enrollment). Students no longer get a Portsmouth

diploma and yet school pays a tuition for students. The cost per head for tuition to Rogers: part-time, \$7,000., full-time, \$13,000. We do issue the diploma to half-timers but unless it's "our" school, the head count, costs and funds change. Our goal is to make every student college and career ready.

**10:00 a.m. – Representative Reilly arrived.**

- a. Support state programs at the local level to improve workforce education and development.

A motion by Mr. Seveney, seconded by Ms. Pedro, to approve. All voted in favor of the motion.

- b. State support for small business incubation center in Portsmouth.

Mr. Rainer stated that the Town needs to take advantage of excess property in unused wing of Coggeshall School so people could start businesses there.

A motion by Mr. Robicheau, seconded by Ms. Pedro, to amend the language to read: Request State support for the establishment of a small business incubation center in Portsmouth and approve. The motion carried 6-0 with Ms. Pedro abstained.

- c. Expedite the funding discussion/legislation associated with RhodeWorksRI program.
  - i. Reject any legislation that calls for funding RhodeWorksRI with tolls.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to amend the language to read: Expand and create a more transparent funding discussion/legislation associated with RhodeWorksRI program and approve. All voted in favor of the motion.

9. Authorization for Local Vendor Preference Ordinance: Allow local communities to award bids on small contracts (less than \$500,000) to taxpaying business in their community that bid on the contract and are within 10% of the low bid and willing to match the low bid.

Mr. Lathrop stated that it's State statute, you must accept the low bid, but it has to be a competitive bid.

**10:15 a.m. – Mr. Wojichowski left the room.**

**10:18 a.m. – Mr. Wojichowski returned.**

A motion by Mr. Seveney, seconded by Mr. Gleason, to approve. The motion carried 6-1 with Ms. Pedro opposed.

10. Navy Property: Continue to explore options for State cooperation with US Navy initiatives to divest infrastructure and utilities, e.g. Tank Farms, Burma Road, and Stringham Road.

A motion by Mr. Gleason, seconded by Mr. Seveney, to approve. All voted in favor of the motion.

11. Roads: Repave East Main Road before the end of 2016.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

12. Portsmouth Permanent Collection: Provide \$5K for funding of the Portsmouth permanent collection housed at the Portsmouth Library.

A motion by Mr. Seveney, seconded by Ms. Pedro, to approve. All voted in favor of the motion.

13. Waste Water Management:

- a. Expand funding for the Rhode Island Infrastructure Bank to ensure there is sufficient funds to finance the CCSLP program.

A motion by Mr. Robicheau, seconded by Mr. Seveney, to approve. All voted in favor of the motion.

- b. Extend the ban on cesspools in the Rhode Island Cesspool Act of 2007 to include all cesspools statewide. – ALREADY DONE

14. Creation of \$0.01 (one cent) tax per gallon of gas: Similar to the Hotel and Meal Tax. One Cent per gallon be collected by fuel stations and put into a fund for the community it was collected fund. Unlike the Hotel and Meal Tax this money would not go into the general fund, but be available to the community as a reimbursement for road and sidewalk projects. In a similar manner of Local Capital Improvement Program (LoCIP) that other states have.

Mr. Lathrop stated this is for local infrastructure, local capital improvement program which accumulates over time and tapped when a major program is needed.

A motion by Ms. Pedro, seconded by Mr. Seveney, to change the word “Creation” to “Redirect” and approve. All voted in favor of the motion.

15. Low / Moderate Income Housing: Update the Low / Moderate Income Housing Act (R.I.G.L. §45-53) to remove impediments toward compliance by municipalities.

Gary Crosby stated that market rate houses are selling but low/moderate houses aren't, we need the low/moderate housing act formula reviewed for a 30 year deed restriction and the level of rent.

A motion by Mr. Seveney, seconded by Ms. Pedro, to approve as amended, changing the word "Update" to "Review". All voted in favor of the motion.

16. Comprehensive Planning and Land Use Act: Vigorously oppose any so-called "opt-out" amendments to the Comprehensive Planning and Land Use Act (R.I.G.L §45-22.2).

Mr. Crosby, if we opt out, surgically remove parts to our comp plan the state may not approve it and could act against the Town's will. Our Plan must be in sync with State guidelines.

A motion by Ms. Pedro, seconded by Mr. Robicheau, to reject. The motion carried 6-1 with Mr. Seveney opposed.

Mr. Fitzmorris stated that a vote in favor of #16 is a vote in favor of RhodeMapRI and he knows of no other Town that has done so. The Home Rule Section of our State Constitution protects Town's rights to local zoning.

### **School Committee**

Ms. Cortvriend: the School Committee has already discussed and agreed upon their list.

1. No Statewide Teachers Contract: The Portsmouth School Committee does not think that a statewide teacher's contract is in the best interest of the taxpayers, students or employees of Portsmouth. Local communities should be able to negotiate their own contract. Especially those communities that pay for over 50% of the education burden via property taxes. When the state pays for over 50% of the cost of running the Portsmouth school district, then the state is free to go to a statewide contract.
2. No Binding Arbitration: We request that our legislators reject any future bills giving teacher unions the right to binding arbitration for teacher contracts.
3. Support the School Building Infrastructure Bond: We urge your support for a substantial bond issue to be used exclusively for school infrastructure improvements and replacements in the state's public school system. The statewide infrastructure improvement needs exceed \$1.5 billion with most of that needed in Providence. Aside from the need, it would also be a construction stimulus for the RI economy with associated economic multiplier effect.
4. Support an Increase in State Funding for High Cost Special Education Students: The cost of special education for even one intensive needs special education student can wreck a well-managed school budget. In light of this fact, we request the state address this issue by

creating a funding mechanism that kicks in when costs for any individual student exceeds a specified threshold. (But not come out of existing school formula hurting other student recipients.)

5. Study and Change How DCYF Handles Responsibility for Students in Their Care: On a related topic we also encourage our legislators to modify how DCYF handles students under their care. DCYF should accept financial responsibility for children under their care. Portsmouth has recently experienced a situation where a child under the care of DCYF was directed to an out of district placement. The student's father then moved to New Bedford and attempted multiple times to register his child for school in New Bedford. New Bedford would not accept his student. The courts have now ordered Portsmouth to pay for this child's out of district tuition even though the family no longer lived in the district. DCYF should be responsible for the tuition of students in their charge.
6. Group Home Aid: Review the bed costs for group homes. Portsmouth has two group homes and these students come to school with greater needs than the average student population. The current rate does not cover the cost of educating these children.
7. Support Legislation that Limits the Amount of Funding Provided to Charter Schools from District Budgets: While the Portsmouth district has not been significantly impacted, we support our fellow public school committees in their call to limit the funding of charter schools that is taken from district budgets. School districts are responsible for many costs that do not apply to public schools and that funding formula needs to be reworked.

\*Ms. Cortvriend corrected the wording in the last line to replace public with charter

8. The same rules should apply to both School Committees and Town Councils:
  - a. School committees should be permitted to amend their agendas in the same fashion as other public bodies in our state. Please change RIGL 42-46-6b by removing reference to the school committees.
  - b. The Portsmouth School Committee believes that Town Council members should be required to participate in the same number of hours of professional development that are required for school committee members. With their important duties and responsibilities our state's Town Councils would benefit from having their members participate in professional development. We encourage you to take up legislation that would make this requirement the same for both branches of town government.

9. Freedom of Information Requests: Individuals should be prohibited from making multiple requests for the same information. Public bodies should be able to refer these individual to the original documents provided within a reasonable period of time. (Administrative staff should not be forced to waste time and tax payer dollars when repetitive requests are made for the exact same information when nothing has changed.)
  
10. Funding Formula: We urge the legislature to carefully study the recommendations that have recently been brought to the governor by the committee she established to review the funding formula. Per their recommendations we would encourage you to support adding funding for special education and English language learners but to not support merely a reallocation of funds which will further reduce the funding Portsmouth receives from the current formula.
  
11. Charter Schools: We urge your support of the following two bills regarding charter schools:
  - a. House Bill No. 7051  
BY Serpa, Amore, O`Grady, O'Brien, McKiernan  
ENTITLED, AN ACT RELATING TO EDUCATION - MAYORAL  
ACADEMIES {LC3299/1}  
  
(Provides the creation of a new charter public school or the expansion of an existing charter public school would require approval from the city or town council of each sending school district.) 1/07/2016 Introduced, referred to House H.E.W.
  
  - b. House Bill No. 7066  
BY O`Grady, Amore, Fogarty, Regunberg, O'Brien  
ENTITLED, AN ACT RELATING TO EDUCATION - CHARTER  
SCHOOLS {LC3420/1}  
  
(Requires the board of education to make certain findings regarding the sending districts before granting approval to a new charter school project.)  
01/07/2016 Introduced, referred to House Finance  
01/08/2016 Scheduled for hearing and/or consideration.

Senator John Pagliarini reported:

- He has been appointed to the committees on finance, housing and municipal government.
- He is presenting a bill requiring tolling be approved by vote of the community.
- He will be meeting next week with DOT and DOT may be at the 2/8/16 TCM.
- He has co-sponsored a bill exempting military pensions from state income tax.
- He will get a letter requesting a grant from the Commerce Department on a business development center.

- He will review the Town's priorities on Low/moderate housing; bond; DARE; local Tax Stabilization Plan.
- He has received the Tipping Fees letter from Mr. Rainer.

Representative Dan Reilly reported on the following:

- He is waiting for an official plan on tolls.
- Navy property, state needs to come in and allow things to move faster
- Roads, he wants East Main Road put in Transportation Improvement Plan
- Opt-Out
- School items Bill H7066 voted out of Finance and on floor next week
- Charters and funding formula are intertwined
- Working with RIREC re tipping fees and how we move trash in RI and how to fund it

### **FUTURE MEETINGS**

January 25, 2016 – Town Council Meeting

February 8, 2016 – Town Council Meeting

A motion by Ms. Pedro, seconded by Mr. Robicheau, to adjourn. All voted in favor of the motion.

### **ADJOURN**

TIME: 11:35 a.m.

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Joanne M. Mower, Town Clerk

**PORTSMOUTH TOWN COUNCIL MEETING  
JANUARY 25, 2016**

7:00 PM – TOWN COUNCIL CHAMBERS, TOWN HALL, 2200 EAST MAIN ROAD

MEMBERS PRESENT: Keith E. Hamilton, James A. Seveney, Kevin M. Aquiar,  
Michael A. Buddemeyer, David M. Gleason, Elizabeth A. Pedro  
and Joseph W. Robicheau.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was followed by a Moment of Silence for our men and women serving around the world in harm's way

**SITTING AS THE PORTSMOUTH TOWN COUNCIL**

**PRESENTATIONS/RECOGNITIONS**

1. Proclamation: Establishing an Annual Portsmouth Founders' Day

President Hamilton presented a Proclamation Establishing an Annual Portsmouth Founders' Day to James Garman, on behalf of the Portsmouth Historical Society.

**SITTING AS THE BOARD OF LICENSE COMMISSIONERS**

1. Entertainment License:

Rhode Island Rugby Football Foundation, Collegiate Rugby Tournament, Gardner Seveney Sports Complex, April 16 & 17, 2016

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve an Entertainment License for Rhode Island Rugby Football Foundation, for their Collegiate Rugby Tournament at the Seveney Sports Complex on April 16-17, 2016. All voted in favor of the motion.

**ADJOURN**

A motion by Mr. Robicheau, seconded by Mr. Seveney, to adjourn as a Board of License Commissioners. All voted in favor of the motion.

## **PRESIDENT'S EXECUTIVE SUMMARY**

President Hamilton said the Council met on January 23<sup>rd</sup> with the School Committee to review goals and driving forces with the Town's State Legislative Delegation.

## **MINUTES**

TCM 12/14/15 Exec.

A motion by Mr. Gleason, seconded by Ms. Pedro, to approve the Executive Session minutes of TCM 12/14/15. All voted in favor of the motion.

TCM 1/11/16

A motion by Ms. Pedro, seconded by Mr. Robicheau, to approve the minutes of TCM 1/11/16 with corrections. The motion carried 6-0 with Mr. Buddemeyer abstaining.

(CORRECTION: OB 4 – Town Planner Crosby stated “that was a mischaracterization of our discussion” that all commercial properties in the area are waiting to see what was going to happen with the roundabouts.)

## **BILLS**

A motion by Mr. Seveney, seconded by Mr. Gleason, to pay all just and due bills in the amount of \$111,964.82. All voted in favor of the motion.

## **TAX VOUCHERS**

Request Approval for Tax Vouchers #20160125-01 to #20160125-04

A motion by Mr. Robicheau, seconded by Mr. Gleason, to approve Tax Vouchers #20160125-01 to #20160125-04, as requested by the Tax Assessor/Collector. All voted in favor of the motion.

## **TOWN ADMINISTRATOR'S REPORT**

1. Electronic Waste/Recycling Update – vendor will take items with Cathode tubes for a fee at PHS. The website will be updated.

2. Tank Farm Study Update – Matrix held a workshop with Tank Farm Committee on January 20 discussing the status of study Matrix will return to update the Town Council in two months.
3. Rhode Island League of Cities and Towns Convention – will be held January 28<sup>th</sup>.
4. Town Website Update – coming attractions with online community videos to be added.

### **APPOINTMENTS AND RESIGNATIONS**

#### 1. Resignations:

- a. Harbor Commission

A motion by Mr. Seveney, seconded by Mr. Robicheau, to accept with regret the resignation of Robert Anson from the Harbor Commission and to send Mr. Anson a letter of thanks. All voted in favor of the motion.

- b. Lower Glen Farm Preservation Committee

A motion by Mr. Seveney, seconded by Mr. Gleason, to accept, with regret, the resignation of Anne Nicholson, from the Lower Glen Farm Preservation Committee and to send Ms. Nicholson a letter of thanks. All voted in favor of the motion.

#### 2. Appointments:

- a. Bristol Ferry Town Common (Re-Appt.)

A motion by Mr. Seveney, seconded by Mr. Robicheau, to re-appoint H. Weber Wilson to the Bristol Ferry Town Common Committee. All voted in favor of the motion.

- b. Glen Park Working Committee (Re-Appt.)

A motion by Mr. Seveney, seconded by Ms. Pedro, to re-appoint Herbert Nicholson to the Glen Park Working Committee. All voted in favor of the motion.

### **OLD BUSINESS**

OB 1 – Request Permission to Conduct 2016 Race the State Through Portsmouth, August 7, 2016/H. Piggin, Manuka Sports Event Management (FR: 1/11/16)

A motion by Mr. Seveney, seconded by Ms. Pedro, to approve their request, subject to proof of insurance and licenses as needed via the Town Clerk's Office, for Manuka Sports Event Management to conduct 2016 Race the State through Portsmouth on August 7, 2016. All voted in favor of the motion.

OB 2 – Update on RIDOT Activity Regarding the Town Center Project and Request for Discussion/Recommendation to Staff on Next Steps/ G. Crosby

A motion by Ms. Pedro, seconded by Mr. Robicheau, to draft and send letters and contact Senator Pagliarini. All voted in favor of the motion.

### **NEW BUSINESS**

NB 1 – Request Approval of a Resolution in Opposition to the Proposed Truck Tolls/ L. Fitzmorris, Portsmouth Concerned Citizens

A motion by Ms. Pedro, seconded by Mr. Robicheau, to accept the resolution and add: “Whereas the Rhode Island budget is \$8.7 Billion, we must be able to find the 1% of the budget, \$40,000,000 to repair roads”. All voted in favor of the motion.

#### **TOWN OF PORTSMOUTH RESOLUTION #2016-01-25**

#### **THE TOWN OF PORTSMOUTH RI OPPOSES THE GOVERNOR’S PROPOSAL TO INSTITUTE TRUCK TOLLS ON MAJOR HIGHWAYS THROUGHOUT THE STATE.**

Meeting, duly noticed and held, this twenty-fifth day of January, 2016, and upon motion duly made and seconded, discussed and passed by a vote of the Portsmouth Town Council. The Town Council of the municipal operation of Portsmouth, Rhode Island hereby recites and resolves as follows:

- WHEREAS:** The proposed construction of toll gantries on a number of Rhode Island highways presently under consideration in the Assembly as the Governor’s RhodeWorks RI program is intended to place tolls on certain types of trucks doing business in Rhode Island and
- WHEREAS:** The Town Council has serious concerns with the negative impact such tolls will have on commerce in Portsmouth as the cost of tolling is anticipated to increase the cost of goods delivered by truck to Portsmouth businesses and citizens and the neighboring communities and
- WHEREAS:** The Portsmouth Town Council and many of Portsmouth’s Citizens believe that once established, the system of toll gantries will likely be used to collect tolls from private vehicles.
- WHEREAS:** The Rhode Island annual budget currently stands at \$8.7 billion. The cost to repair the State’s roads and bridges is estimated at \$40 million per year. This would amount to less than 1% of the annual budget; therefore the state should be able to fund this Public Works project with existing funds.

**NOW, BE IT THEREFORE RESOLVED:** That the Town Council hereby opposes any legislation that will place any toll gantries on any highways within the State of Rhode Island.

**ATTESTED,** that the Resolution set forth above was approved by the Town Council of the Town of Portsmouth, Rhode Island, by action duly taken on the 25th day of January, 2016.

Keith E. Hamilton, President, Portsmouth Town Council

NB 2 – Discussion/Action – Police Station Architectural Services/ J. Lathrop

A motion by Ms. Pedro, seconded by Mr. Robicheau, to direct the Finance Department to start on an RFQ. All voted in favor of the motion.

NB 3 – December Budget Update/ J. Lathrop

A motion by Mr. Seveney, seconded by Mr. Robicheau, to receive and place on file. All voted in favor of the motion.

### **CORRESPONDENCE**

1. Thank You Letter for Partnering on the Conservation of the Eugene Chase Farm Property on Prudence Island/ R. Jenness, chair, Prudence Conservancy

A motion by Ms. Pedro, seconded by Mr. Seveney, to receive and place on file. All voted in favor of the motion.

### **FUTURE MEETINGS**

February 8 7:00 PM – Town Council Meeting  
February 22 7:00 PM – Town Council Meeting

### **EXECUTIVE SESSION**

1. RIGL 42-46-5 (a) (2) – Collective Bargaining: PMEA

A motion by Mr. Seveney, seconded by Ms. Pedro, to go into Executive Session under RIGL 42-46-5 (a) (2) Collective Bargaining, PMEA. All voted in favor of the motion.

TIME: 7:55 p.m. - Break

TIME: 8:20 p.m. - Return

### **RETURN TO OPEN SESSION**

Mr. Hamilton announced that the Council had met to discuss negotiations with the PMEA.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to adjourn. All voted in favor of the motion.

### **ADJOURN**

TIME: 8:20 p.m.

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Joanne M. Mower, Town Clerk

BILL LIST

Bill List Expenditures  
Town of Portsmouth:2015-2016

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Vendor	Account Number		Date	Description	Amount
<b>Line Item 10002 TOWN ADMINISTRATOR</b>					
CHAPPELL & CHAPPELL	1-01-312-10002-04	LEGAL SERVICES	2/9/2016	PROF SERVICES: DECEMBER	\$1,375.00
Sub Total:					\$1,375.00
<b>Line Item 10003 TOWN CLERK</b>					
ACS ENTERPRISE SOLUTIONS IN	1-01-333-10003-06	LAND EVID/VITAL STATS	2/9/2016	TOWN CLERK: LAND EVIDENCE	\$1,015.75
W B MASON CO INC	1-01-401-10003-06	OFFICE SUPPLIES & EQUIPMEN	2/9/2016	TOWN CLERK: OFFICE SUPPLIES	\$102.80
Sub Total:					\$1,118.55
<b>Line Item 10004 CANVASSING</b>					
KENNEDY PERSONNEL SERVICES	1-01-129-10004-08	TEMPORARY ASSISTANCE	2/9/2016	CANVASSING: TEMP ASST	\$728.00
KENNEDY PERSONNEL SERVICES	1-01-129-10004-08	TEMPORARY ASSISTANCE	2/9/2016	CANVASSING: TEMP ASST	\$582.40
Sub Total:					\$1,310.40
<b>Line Item 20001 FINANCE/PERSONNEL</b>					
URI COOPERATIVE EXTENSION	1-01-334-20001-20	PROF DEV/TRAINING	2/9/2016	PROF DEV: WASTEWATER TRAINING	\$390.00
W B MASON CO INC	1-01-401-20001-20	OFFICE SUPPLIES & EQUIPMEN	2/9/2016	FINANCE: OFFICE SUPPLIES	\$178.12
Sub Total:					\$568.12
<b>Line Item 20002 TAX ASSESSOR/COLLECTOR</b>					
MAINSTREET GIS, LLC	1-01-315-20002-22	MAPPING SUPPLIES & SERVICE	2/9/2016	TAX: '16 GIS MAINT - 50%	\$2,450.00
VISION GOVERNMENT SOLUTION	1-01-320-20002-22	STATISTICAL/FULL REVALUATIO	2/9/2016	TAX: '16 REVALUATION	\$11,718.45
W B MASON CO INC	1-01-401-20002-22	OFFICE SUPPLIES & EQUIPMEN	2/9/2016	TAX: OFFICE SUPPLIES	\$23.08
Sub Total:					\$14,191.53

BILL LIST

Bill List Expenditures  
Town of Portsmouth 2015-2016

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Vendor	Account Number	Date	Description	Amount
<b>Line Item 31001 POLICE</b>				
AF TACTICAL LLC	1-01-454-31001-24	2/9/2016	POLICE ACADEMY RECRUITS	\$419.29
FIREX, INC.	1-01-405-31001-24	2/9/2016	BUILDING MAINTENANCE	\$271.00
IACP	1-01-290-31001-24	2/9/2016	CONTINUING EDUCATION	\$150.00
INTERNATIONAL ASSOCIATION F	1-01-290-31001-24	2/9/2016	CONTINUING EDUCATION	\$375.00
INTERNATIONAL ASSOCIATION F	1-01-290-31001-24	2/9/2016	CONTINUING EDUCATION	\$350.00
MICHAEL J. MORSE	1-01-290-31001-24	2/9/2016	CONTINUING EDUCATION	\$139.55
PORTSMOUTH ACE HARDWARE	1-01-434-31001-24	2/9/2016	MISCELLANEOUS	\$13.99
POWER EQUIPMENT CO.	1-01-405-31001-24	2/9/2016	BUILDING MAINTENANCE	\$340.00
ROGER WILLIAMS UNIVERSITY	1-01-290-31001-24	2/9/2016	CONTINUING EDUCATION	\$300.00
SIRCHIE FINGER PRINT LABORAT	1-01-455-31001-24	2/9/2016	INVESTIGATIONS	\$56.00
STATE OF RHODE ISLAND	1-01-434-31001-24	2/9/2016	MISCELLANEOUS	\$80.00
STATE OF RHODE ISLAND	1-01-452-31001-24	2/9/2016	FINGERPRINTING SERVICES	\$660.00
ULINE, INC.	1-01-405-31001-24	2/9/2016	BUILDING MAINTENANCE	\$542.38
W B MASON CO INC	1-01-401-31001-24	2/9/2016	OFFICE SUPPLIES	\$83.91
ZEE MEDICAL, INC.	1-01-405-31001-24	2/9/2016	BUILDING MAINTENANCE	\$139.18
Sub Total:				\$3,920.30
<b>Line Item 31003 FIRE</b>				
C.J. ASSOCIATES, INC.	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$172.61
CLINICAL ONE HOME MEDICAL	1-01-403-31003-28	2/9/2016	MEDICAL SUPPLIES/EQUIPMEN	\$461.05
CLINICAL ONE HOME MEDICAL	1-01-403-31003-28	2/9/2016	MEDICAL SUPPLIES/EQUIPMEN	\$338.70
CLINICAL ONE HOME MEDICAL	1-01-403-31003-28	2/9/2016	MEDICAL SUPPLIES/EQUIPMEN	\$222.00
CLINICAL ONE HOME MEDICAL	1-01-403-31003-28	2/9/2016	MEDICAL SUPPLIES/EQUIPMEN	\$217.59
FIREX, INC.	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$634.50
GREENWOOD EMERGENCY VEHI	1-01-406-31003-28	2/9/2016	VEHICLE MAINT & REPAIRS	\$96.91
NAPA AUTO PARTS	1-01-406-31003-28	2/9/2016	VEHICLE MAINT & REPAIRS	\$65.54
PORTSMOUTH ACE HARDWARE	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$39.96
PORTSMOUTH ACE HARDWARE	1-01-501-31003-28	2/9/2016	EQUIPMENT NEW & REPLACE	\$71.94
SHIPMAN'S FIRE EQUIP CO	1-01-501-31003-28	2/9/2016	EQUIPMENT NEW & REPLACE	\$166.85
SOUTHCOAST HOSPITALS GROU	1-01-403-31003-28	2/9/2016	MEDICAL SUPPLIES/EQUIPMEN	\$5.85
TOPPA'S FOODSERVICE & PAPER	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$79.80
UNIFIRST CORPORATION	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$171.28
UNIFIRST CORPORATION	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$86.19
UNIFIRST CORPORATION	1-01-405-31003-28	2/9/2016	BUILDING MAINTENANCE	\$185.86
UNIVERSITY MEDICINE FOUNDATI	1-01-809-31003-28 *	2/9/2016	N.F.P.A COMPLIANCE	\$225.00
Sub Total:				\$3,241.63

BILL LIST

Bill List Expenditures  
Town of Portsmouth 2015-2016

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Vendor	Account Number	Date	Description	Amount
<b>Line Item 31004 ANIMAL CONTROL</b>				
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: NOV '15	\$390.00
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: DEC '15	\$390.00
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: SEPT '15	\$375.00
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: AUG '15	\$465.40
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: OCT '15	\$224.08
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: MAY '15	\$628.59
POTTER LEAGUE FOR ANIMALS I	1-01-338-31004-30	2/9/2016	ANIMAL CONTROL: JUNE '15	\$569.15
Sub Total:				\$3,042.22

<b>Line Item 33001 PUBLIC WORKS</b>				
AIRGAS USA LLC	1-01-428-33001-32	2/9/2016	DPW: TOOLS & SHOP EQUIPMENT	\$87.35
AQUIDNECK FASTENERS, INC.	1-01-428-33001-32	2/9/2016	DPW: TOOLS & SHOP EQUIPMENT	\$63.45
COASTAL ELECTRIC INC.	1-01-434-33001-32	2/9/2016	DPW: TOWN HALL	\$234.00
CYBER COMM INC.	1-01-334-33001-32	2/9/2016	DPW: RADIO REPAIR	\$484.00
DONOVAN & SONS INC.	1-01-690-33001-32 *	2/9/2016	DPW: PAVING EXPENSES	\$450.00
DONOVAN & SONS INC.	1-01-434-33001-32	2/9/2016	DPW: TOWN HALL	\$79.53
DONOVAN & SONS INC.	1-01-434-33001-32	2/9/2016	DPW: TOWN HALL	\$349.89
EZ ACCESS DOOR SYSTEMS, INC.	1-01-434-33001-32	2/9/2016	DPW: SENION CENTER	\$387.00
GRAINGER INC	1-01-428-33001-32	2/9/2016	DPW: TOOLS & SHOP EQUIPMENT	\$17.30
GRAINGER INC	1-01-428-33001-32	2/9/2016	DPW: TOOLS & SHOP EQUIPMENT	\$108.36
GRAINGER INC	1-01-405-33001-32	2/9/2016	DPW: BUILDING MAINT	\$368.85
J.A.M. CONSTRUCTION CO. INC.	1-01-421-33001-32	2/9/2016	DPW: SNOW REMOVAL 1/23-1/24	\$1,162.50
MIKE'S OIL CO., INC.	1-01-405-33001-32	2/9/2016	DPW: BUILDING MAINT	\$120.00
MORTON SALT	1-01-419-33001-32	2/9/2016	DPW: SNOW REMOVAL MATERIALS	\$13,194.65
PLUMBERS' SUPPLY CO	1-01-405-33001-32	2/9/2016	DPW: BUILDING MAINT	\$97.90
PLUMBERS' SUPPLY CO	1-01-405-33001-32	2/9/2016	DPW: BUILDING MAINT	\$7.94
PLUMBERS' SUPPLY CO	1-01-690-33001-32 *	2/9/2016	DPW: PAVING EXPENSES	\$39.39
PORTSMOUTH ACE HARDWARE	1-01-434-33001-32	2/9/2016	DPW: TOWNWIDE	\$51.91
PORTSMOUTH ACE HARDWARE	1-01-405-33001-32	2/9/2016	DPW: BUILDING MAINT	\$7.98
POWER EQUIPMENT CO.	1-01-434-33001-32	2/9/2016	DPW: TOWN HALL	\$423.75
R. I. PUBLIC WORKS ASSOCIATIO	1-01-290-33001-32 *	2/9/2016	DPW: MEMBERSHIP DUES	\$50.00
ROLAND'S TIRE SERVICE, INC.	1-01-329-33001-32	2/9/2016	DPW: EQUIPMENT MAINT	\$1,008.66
THYSSEN KRUPP ELEVATOR, INC.	1-01-434-33001-32	2/9/2016	TOWN HALL ELEVATOR: BALANCE DUE	\$1,489.00
W B MASON CO INC	1-01-401-33001-32	2/9/2016	DPW: OFFICE SUPPLIES	\$77.43
W B MASON CO INC	1-01-401-33001-32	2/9/2016	DPW: OFFICE SUPPLIES	\$102.98
WASTE MANAGEMENT OF RI, INC	1-88-649-33001-32 *	2/9/2016	DPW: PI RECYCLING	\$615.15
Sub Total:				\$21,078.97

BILL LIST

Bill List Expenditures  
Town of Portsmouth 2015-2016

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Vendor	Account Number	Date	Description	Amount
<b>Line Item 33002 BUILDING INSPECTION</b>				
W B MASON CO INC	1-01-401-33002-33 *	2/9/2016	BLDG INSP: OFFICE SUPPLIES	\$143.23
				Sub Total: \$143.23
<b>Line Item 54003 GLEN COMMITTEE/MAINT</b>				
HERBERT NICHELSON	1-01-700-54003-48 *	2/9/2016	MELVILLE PARK: BLDG/GROUNDS MAINT	\$133.77
				Sub Total: \$133.77
<b>Line Item 54004 MANOR HOUSE COMM</b>				
ALL ISLAND LANDSCAPE, INC.	1-01-550-54004-50	2/9/2016	MANOR HOUSE: GROUNDS MAINT	\$314.00
EDESIGN	1-01-316-54004-50	2/9/2016	MANOR HOUSE: ADVERTISING	\$50.00
EQ INSPECTION	1-01-405-54004-50	2/9/2016	MANOR HOUSE: BLDG MAINT	\$375.00
SUMMIT HEATING SERVICE, INC.	1-01-405-54004-50	2/9/2016	MANOR HOUSE: BLDG MAINT	\$100.00
SUMMIT HEATING SERVICE, INC.	1-01-405-54004-50	2/9/2016	MANOR HOUSE: BLDG MAINT	\$229.62
SUMMIT HEATING SERVICE, INC.	1-01-405-54004-50	2/9/2016	MANOR HOUSE: BLDG MAINT	\$495.24
SUPERIOR PLUS ENERGY SERVIC	1-01-410-54004-50	2/9/2016	MANOR HOUSE: FUEL	\$1,227.78
TOM'S LAWN & GARDEN EQUIP	1-01-550-54004-50	2/9/2016	MANOR HOUSE: GROUNDS MAINT	\$361.91
				Sub Total: \$3,153.55
<b>Line Item 61004 * No LINE ITEM Descriptor *</b>				
MHQ MUNICIPAL SUPPLY	1-99-689-61004-00 *	2/9/2016	POLICE: BAL OF VEHICLES	\$12,053.03
UNION STUDIO ARCHITECTURE	1-99-689-61004-00 *	2/9/2016	CIP: BROWN HOUSE #15-3300	\$1,050.49
				Sub Total: \$13,103.52
<b>Line Item 70000 NON-APPROP ACCOUNTS</b>				
SIGNAL COMMUNICATIONS CORP.	1-52-861-70000-00 *	2/9/2016	FIRE: ALARM MAINT	\$670.00
				Sub Total: \$670.00
<b>Line Item 72900 TRF STATION SOLID WASTE</b>				
J. R. VINAGRO CORPORATION	1-88-863-72900-00 *	2/9/2016	TRANSFER STATION	\$22,400.19
J. R. VINAGRO CORPORATION	1-88-863-72900-00 *	2/9/2016	TRANSFER STATION: NON HAZ MIXED	\$993.52
				Sub Total: \$23,393.71

BILL LIST

Bill List Expenditures  
Town of Portsmouth 2015-2016

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Vendor	Account Number	Date	Description	Amount
<b>Line Item 72901 TRF STATION RECYCLING</b>				
RI RESOURCE RECOVERY CORP	1-88-863-72901-00 *	2/9/2016	RECYCLING: COMPOST BINS	\$2,882.80
RI RESOURCE RECOVERY CORP	1-88-863-72901-00 *	2/9/2016	RECYCLING: RECYCLING BINS	\$124.20
Sub Total:				\$3,007.00
 <b>Line Item 72902 TRF STATION PI SOLID WAST</b>				
WASTE MANAGEMENT OF RI, INC	1-88-863-72902-00 *	2/9/2016	DPW: PI SOLID WASTE	\$663.63
Sub Total:				\$663.63
Batch BILL LIST				\$94,115.13

PREPAY

Bill List Expenditures  
Town of Portsmouth 2015-2016

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Vendor	Account Number	Date	Description	Amount
Line Item 54002 MELVILLE PARK				
TOWN OF PORTSMOUTH	1-01-913-54002-47	1/26/2016	POND 8 REMEDIATION MELVILLE PK: DEM PERMIT POND 8	\$55.00
			Sub Total:	\$55.00
			Batch PREPAY	\$55.00

**PRE-PAID**

PREPAY

Bill List Expenditures  
Town of Portsmouth 2015-2016

2/2/2016 10:11:43 AM

Vendor

Account Number

Date

Description

Amount

Grand Total:

\$94,170.13

Reviewed





*Portsmouth Dog Park Planning Committee  
13 Fox Run Road  
Portsmouth, RI 02871*

February 2, 2016

Mr. Keith Hamilton, President  
Portsmouth Town Council  
2200 East Main Road  
Portsmouth, RI 02871

Dear Mr. Hamilton and fellow Council Members,

The Portsmouth Dog Park Planning Committee has two items to bring before the Council at its February 8<sup>th</sup> meeting. The first is a request to once again place an insert with a Dog Park update in the dog license renewal letters going out from the Clerk's Office in late February. A sample of that half page insert is attached.

Secondly, I am requesting that two names be removed from the membership of the Dog Park Planning Committee: Joan Eline and Grace Kinnunen. Both women officially resigned from the committee, but neglected to send letters of notification to the Clerk. Attached are minutes from the committee acknowledging their resignations. Joan has moved to Florida with her husband's job change and Grace cited other town-related obligations. With the addition of three new members in the last few months, committee membership is at 10, with 4 more active participants who have not officially joined the committee.

Thank you, Council, for your attention in these two matters. I look forward to answering any questions you may have about our progress at the February 8<sup>th</sup> meeting.

Sincerely yours,

Bunny Miller, Chair  
Dog Park Planning Committee

**Minutes**  
**Portsmouth Dog Park Planning Committee**  
**May 26, 2015**

When: Tuesday, May 26, 2015

Recorder: Bunny Miller

Where: Portsmouth Room, Town Hall

Approved: June 30, 2015

Called to order: 7:10 PM

Adjourned: 8:35 PM

Next meeting: Either, Thursday, June 18 or Tuesday, June 30, depending on the outcome of first round of the Bark For Your Park contest.

Present: 7: Sheila Collins, Kim Cipolla, Mike Hiener, Grace Kinnunen, Mary Brakenhoff, Bunny Miller and one guest volunteer.

Absent/excused: Joan Eline, Julie Sweeney, Jim Medeiros

Absent: Neal Hingorany

Guests: Judi Smith

\*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*    \*\*\*\*\*

1. Opening Business:

- a. With 6 of 10 voting members at the table, it was determined that a quorum was present. The minutes of the April 28 meeting were approved as written. A memo from Joan Eline was shared. She is moving soon to Orlando, Florida with her husband and must resign from the DPPC. Her resignation was accepted with regret, appreciation for her active participation, and good wishes for her future in Orlando.

2. Officer's Reports:

- a. The Chairperson will be attending a Bike Park meeting at Town Hall on Thursday night and indicating our preference for the Melville Ponds alternative for the bike path in Portsmouth.
- b. The checking account balance is now at \$6,329.69. There are outstanding charges to the account for block ads in the Daily News. Kim reported that the net income from the Fun Run was \$1,194.50. She urged committee members to check out on-line and order Meredith's pictures from the event. Bunny has a disk of the pictures for loan. She has uploaded some to our Facebook and BFYP pages.

3. Fundraising/Publicity updates:

- a. **Past Events:** The report from Joan indicated that no orders were placed for the Chocolate Discoveries fundraiser. There was a net loss of \$40 for printing flyers. We agreed that it wasn't advertised enough with all the other activities going on and not promoted to the right population.
- b. **Ongoing:** Counter Collection Containers. Several people brought in cash to be deposited. The total amounted to \$93.75. Bark for Your Park Contest is not going too well. Mike provided a random sample of 9 communities and we had the least votes. It is imperative that committee members vote twice everyday and keep after their friends and relatives to do the same if we

are to stand a chance. Block ads have appeared in the Daily News, but are expensive and it was agreed to discontinue them and perhaps look into on-line Daily News ads instead. Both Portsmouth Times and Daily News published the news releases and Portsmouth Patch picked it up. Michelle's Girl Scout Troop gave out all their cards and have been provided with more, as were committee members. Bunny replenished the supply at the library and Town Hall. Kim distributed an e-mail with the two sided flyer for individuals to print at home for additional distribution. We are not sure if the Potter League or School Department sent it out to their e-mail lists. Both were notified. Mike has

experienced difficulty uploading our Town documents to the site. Kim offered to assist. Plans were made to meet on the Thursday after the finalists are announced to plan for our national campaign, should we make the finals.

Clement's Marketplace Change for Charity: Last week began our spot for this project. The thermometer has been placed next to the collection container. They were not able to post our banner, as it was too large. It is stored in Bunny's garage.

**c. Future Events:** summer/fall fundraisers. Planning was tabled to the June meeting.

4. Grant Applications underway:

- a. We heard from both the ALT and Champlin grant applications. Champlin said they don't fund Dog Parks, that communities should do that! We did receive a check from ALT Merritt Neighborhood Fund in the amount of \$775. Thanks to Neal for this grant preparation.
- b. Sheila is working on the van Beuren Foundation grant with Heather Rhodes and Fung Chan from the Town Finance Office. It is due June 1.

5. Other Grant Possibilities:

- a. Bunny will explore the 501(c) 3 options when she returns from her second trip. We will have a better idea of how much funding we still need after the BFYP contest is over. There are still a number of places we can submit applications.

6. Other Business:

- a. Neal was not present to update us on the status of the site design preparation. Direct solicitation to local businesses and sale of memorial pavers is dependent on an approved plan.
- b. Sheila obtained estimates from Blowfish in Newport for 3-color t-shirts. 50 shirts would cost between \$950 and \$1050 depending on whether we ordered a white or colored shirt, or around \$20 each. National Embroidery prices were similar.
- c. Kim mentioned the need for a detailed, itemized budget. Hopefully we will have that soon. Several people mentioned the need for the tax exempt # when asking for donations. Bunny will provide what she has from the Town to everyone.

7. Plan Next Meeting: Next meeting will be held on either Thursday, June 18<sup>th</sup> or the 5<sup>th</sup> Tuesday of June, the 30<sup>th</sup>, depending on the outcome of the preliminary BFYP contest. The meeting will focus on winning in the finals OR future fundraising.

8. Adjournment: The meeting was adjourned at 8:35 PM.

**Minutes – September 29, 2015**  
**Portsmouth Dog Park Planning Committee**

When: Tuesday, September 29, 2015

Recorder: Bunny Miller

Where: Portsmouth Room, Town Hall

Approved: October 27, 2015

Called to order: 7:05 PM

Adjourned: 9:10 PM

Next meeting: Tuesday, October 27, 2015

Present: 11: Mary Brakenhoff, Julie Sweeney, Neal Hingorany, Debra Bair, Kim Cipolla, Mike Hiener, Jim Medeiros, Grace Kinnunen and Bunny Miller, plus two guests.

Absent/excused: Sheila Collins, Laurie Ruttenberg, Liz Pedro

Absent/unexcused: none

Guests: Judi Smith and Marc Domina

\*\*\*\*\*

1. Opening Business:

- a. With 9 of 11 voting members present, there was a quorum. The minutes of the August 25th meeting were approved as corrected. New committee member, Debra Bair introduced herself and Judi introduced the guest she brought, Mark Domina of Domina's Agway in Portsmouth. Bunny noted that Bill Alsheimer decided not to join the committee, but another new member not present this evening, Laurie Ruttenberg, was approved at the Town Council meeting Monday.

2. Officer's Reports:

- a. The Chairperson reporting meetings with 1) Elizabeth Lynn of vanBeuren Charitable Foundation on September 13. They may be interested in partially funding the dog park, but that is contingent on us getting the approved plan and accurate financial package to them very soon. 2) Portsmouth Tree Warden, John Fitzgerald, who walked the site and will mark trees to come down for DPW and/or volunteers. 3) The Melville Park Committee in a special meeting that turned out to be an unfortunate affair. Since gossip about that meeting is bound to be generated within Portsmouth, Bunny asked that committee members not participate in any of it. 4) Town Council meeting last evening, that included 3 requests for the dog park – approval of Neal's preliminary site plan for submission to vbccf; interpretation of whether or not we could accept assistance from the DPW and their equipment in readying the site; and to decide jurisdictional issues with the Melville Park Committee. The plan was approved, DPW can assist at their discretion, and the Council will retain a direct relationship with this committee. The Town Administrator will serve as a liaison to the MPC. Our sign, removed at the insistence of the MPC may or may not go back up at Mr. Rainer's discretion. Also passed at the Council meeting was the Melville Park option to the Aquidneck Island Bike Path, which we supported, as it could result in public restroom facilities located near the dog park. 5) Met with Joe Baker of Newport Daily News at the site for follow up story. Check out tomorrow's paper.
- b. Bunny reported contacting PHS about getting on the Senior Projects list, which was done, but no Seniors this year picked our fundraising projects. We should get our request in earlier next year.
- c. The checking account balance is currently at \$881.15. At one point it reached a high of slightly over \$8,000. The total cost of the goats was \$5,970. The Town has uncollected encumbrances of \$1,674.00. Income from the box at site of goats was \$187.62, Counter Container receipts were \$101.50, and a \$30 check for the Pup-tail Party made up recent deposits.

3. Site Report:

- a. Goatscaping: The Herd of Hope, which numbered 31 goats at the end, had to leave a day early due to a violent storm. \$370 was removed from our final bill. Area cleared was equivalent of about 2 acres or two football fields of 300 x 100 feet each. 3 goats met; cleared enough to get into site for design; brought huge publicity to project, both newspaper and TV; and an interest from private funding source. Unexpected benefit was to Laurel Hill MicroFarm which has more business than they can handle and used our payment to purchase a second vehicle to transport the goats, enabling them to be at two sites at once.
- b. Follow-up clearing: An effort to recruit volunteers over the weekend following the goats proved only marginally successful. Kim gave Channel 10 an excellent interview on that day. Dave Kehew, Director of the Department of Public Works persuaded Northeastern Tree Company to volunteer use

of a forestry head on a Bobcat to grind up the vines and brush left behind by the goats. That was done Tuesday morning, with amazing speed, but was cut short due to rain. He plans to have his crew remove the concrete caps, boiler, and other junk on site for safety reasons when they have time. He will recruit volunteers to fell and remove the remaining trees and he will check on the history of the site with regard to water, sewage, etc. The committee is extremely grateful for his spirit of cooperation. Bunny has been checking on vegetation retardant for the site to be applied this fall. Organic retardant is available through Premier Landscaping, but has been reported as basically unsuccessful. She is getting quotes for a chemical retardant, but the safety hazards need to be removed first.

- c. Site Design: Neal unveiled his preliminary drawing based on the land cleared of just under 2 acres including parking for 10 cars. He asked that committee members reserve the urge to make changes at this meeting and make them at the next meeting when he has the financial back up for the design. Two local companies are voluntarily assisting him with that data, but it is not ready yet. There was discussion on the use of grass as a surface instead of wood chips. Marc pointed out that a year's mowing would discourage invasive vegetation better than anything else. We would need to hydro-seed and then after a year or two go to woodchips if the grass is not holding up. One concern raised for further consideration is the ease of access to the small dog area from the parking lot. Folks with mobility issues are most likely to have small dogs.
4. Fundraising/Publicity updates:
    - a. **Past Events**: The Feed the Goats box on site received just under \$200 in donation.
    - b. **Ongoing**: Counter Collection Containers. Collected funds were received and listed in the treasurer's report.
    - c. **Up-coming Events**: Greenvale Vineyards: In Sheila's absence, Kim reported for the sub-committee. She distributed tickets to members who wished to sell them and asked that they be numbered in order to track the amount sold. The EventBrite page is already set up. Two sizes of posters were available for distribution. She divulged the numerous items for the Silent Auction. Bunny offered to send out press releases to local papers and to contact The Glen Manor House about borrowing 10 folding wooden chairs. Mary offered to take letters to two potential food sources and Bunny will take the other two.
    - d. Polo Charities: Kim reported that she still has not heard back from them as yet. Last match was this past weekend, so perhaps we will hear soon.
    - e. Photos With Santa: Marc Domina announced that the Dog Park will be one of their benefactors again this year from their December Photos With Santa event.
  4. Grant Applications underway:
    - a. van Beuren Charitable Foundation has expressed interest in partially funding us. They require our approved design plan and exact working budget very soon. Neal and I are hoping to meet their deadline. If we don't, we can reapply in January for April funding. Special thanks to Sheila for her efforts with this grant application and follow up.
  5. Other Grant Possibilities:
    - a. Ellen DeGeneres Show and National Grid are still possibilities.
    - b. There will be a need to generate additional revenue, so members were asked to be alert to other sources.
  6. Other Business:
    - a. Grace told the Committee that she needs to resign and devote her time to the other two committees she is on. She was asked to send a letter to the Town Clerk to make it official and thanked for her contributions to our cause over the past two years.
  7. Adjournment/next meeting: The meeting was adjourned at 9:10 PM. The next regular meeting will be Tuesday, October 27th, 7:00 PM. Since that will be followed by November and December, both with holidays in their last weeks, Tuesday December 8<sup>th</sup> was selected as the combined monthly meeting for those months.



January 25, 2016

Katherine Inch  
Town Clerk's Office  
Town of Portsmouth  
2200 East Main Road  
Portsmouth, RI 02871

**Re: Removal Letter – Gary Graham, Design Review Board Membership**

Dear Kathy,

I've been very pleased to serve the Town of Portsmouth as a member of the Design Review Board (DRB) for the past ten years, and as Chair for the past five years. I would like to thank the Town, and the past Chair, John Borden for providing me the opportunity to serve on the Board and to help establish the DRB Guidelines.

I understand that applications and removal letters are placed on the Agenda of the Town Council. I would like the Council to know that my decision to step down, was made last year, when the Town, in my opinion, conducted a thoroughly unprofessional and unfair procurement process for the Police Facility Feasibility Study.

The procedures that were outlined in the Request for Proposal were not followed, and an opportunity to evaluate a number of creative alternatives for the project, by my firm and several others, was lost due to laziness, haste, or expediency on the part of the Town.

Design is not a commodity that can be purchased off the shelf at the cheapest price. I strongly encourage the Town of Portsmouth, and the State of Rhode Island for that matter, to adopt a true Qualifications Based Selection procurement process for design services.

In the meantime, I will provide my files to the next DRB Chair, and cooperate with a transition.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Graham".

Gary L. Graham, FAIA

Gregory Yalanis, AIA

spring street **STUDIO**

334 Spring Street  
Newport, RI 02840

January 22, 2016

Katherine A. Inch  
Town Clerks Office  
Portsmouth, RI 02871

**Design Review Board:**

Re: Term expiration

Dear Ms. Inch,

As a member of the Design Review Board, I've enjoyed the opportunity to participate on several projects that have come before us, and appreciated the opportunity to serve as a member of the community. I understand at this point that my term as a member of the Design Review Board has officially expired as of January 11'th, 2016. I'm writing to officially notify you that I do not intend on requesting a new application and continuing on as a member of the board.

Please feel free to contact me should you need any additional information of clarification.

Sincerely,

Gregory Yalanis, AIA



**Camera/O'Neill**  
Consulting Engineers

Camera O'Neill Consulting Engineers · 888.308.7541  
117 Black Point Lane, Portsmouth, RI 02871  
info@cameraoneill.com · www.cameraoneill.com

Katherine A. Inch  
Town Clerk's Office  
Portsmouth, RI 02871

January 24, 2016

**Design Review Committee:**

Re: expiring term for Michael V. Camera, P.E.

Dear Ms. Inch:

At your request, I am writing this letter to officially notify you and the rest of the Committee that I do not intend on continuing to serve on the Design Review Committee after my term is up on 4-25-2016. Please feel free to contact me should you need any further clarification.

Sincerely,

Michael V. Camera P.E.  
Camera – O'Neill Consulting Engineers, Inc.

TOWN OF PORTSMOUTH, RI  
BOARDS/COMMISSIONS/COMMITTEES  
APPLICATION FORM

RECEIVED  
PORTSMOUTH, R.I.

2016 JAN 22 P 3:51

JOANNE M. MOWER  
TOWN CLERK

Date: 1/21/16 New Appointment:  Re-Appointment

Board/Commission/Committee Being Applied For: P. Lower Glen Preservation

(PLEASE PRINT) NAME: PETER RICHTMYER

FULL STREET ADDRESS: 760 BRISTOL FERRY RD, PORTSMOUTH

MAILING ADDRESS (if different): /

TELEPHONE NUMBERS:

HOME: \_\_\_\_\_ BUSINESS: \_\_\_\_\_ CELL: 401 835 7159

E-MAIL ADDRESS: peter.richtmyer@gmail.com

PRESENT EMPLOYER NAME AND ADDRESS: (retired)

LENGTH OF EMPLOYMENT: \_\_\_\_\_

IF LESS THAN TWO YEARS, PREVIOUS EMPLOYER (Name and address):  
\_\_\_\_\_  
\_\_\_\_\_

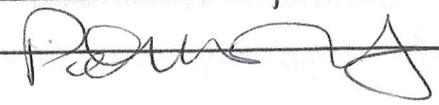
EDUCATIONAL BACKGROUND: BA Williams College  
MS West Coast U.

WORK EXPERIENCE RELATED TO POSITION BEING APPLIED FOR:

Owned homes for 45 years!

RE-APPOINTMENT MUST INCLUDE DATA ON ATTENDANCE OF  
PREVIOUS TERM: probably missed 1 or 2 meetings  
in last 2 years

PROVIDE A BRIEF EXPLANATION OF YOUR INTEREST IN THIS  
POSITION: very interested in maintenance of  
Portsmouth heritage, including Glen Farms

SIGNATURE OF APPLICANT:   
8/26/11

TOWN OF PORTSMOUTH, RI  
BOARDS/COMMISSIONS/COMMITTEES  
APPLICATION FORM

Date: 1/20/16 New Appointment:        Re-Appointment X

Board/Commission/Committee Being Applied For: Lower Glen Farm Preservation

(PLEASE PRINT) NAME: BARBARA PLANTE

FULL STREET ADDRESS: 228 INDIAN AVE, PORTS, RI 02871

MAILING ADDRESS (if different):       

TELEPHONE NUMBERS:

HOME: 846-8445 BUSINESS: 832-2733 CELL:       

E-MAIL ADDRESS: PLANTEBL@AOL.COM

PRESENT EMPLOYER NAME AND ADDRESS: Systems Resource Mgmt  
42 Valley Rd, Midd R# 02842

LENGTH OF EMPLOYMENT: 2445

IF LESS THAN TWO YEARS, PREVIOUS EMPLOYER (Name and address):  
      

EDUCATIONAL BACKGROUND: High School Grad w/some  
College

WORK EXPERIENCE RELATED TO POSITION BEING APPLIED FOR:

Have been a member since 9/2004.

RE-APPOINTMENT MUST INCLUDE DATA ON ATTENDANCE OF  
PREVIOUS TERM: Never missed a meeting

PROVIDE A BRIEF EXPLANATION OF YOUR INTEREST IN THIS  
POSITION: To Renovate AND maintain open space  
of barn area.

SIGNATURE OF APPLICANT: Barbara Plante





October 30, 2015

Portsmouth Town Clerk

Re: Request to Amend  
Noise Ordinance

Dear Joanne,

Would you kindly place on the November 9<sup>th</sup> Town Council agenda the enclosed proposed amendment to the noise ordinance.

I will be requesting the council to advertise the proposed ordinance change for a hearing on the proposed amendment.

Thank You,



---

Robert A. Lantz  
1960 East Main Rd  
Portsmouth, RI 02871

**Amendment of Ordinance**  
**Chapter 257 of the Portsmouth Town Code Noise Ordinance**  
**Is hereby amended as follows:**

**§257-18. Sound variances.**

A. Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B. Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C. 1. All applications shall be accompanied by an application fee in an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

2. If a temporary variance is granted, the fee shall be \$50 per day.

3. For any business whose operation is at a fixed location, if a variance is granted, the annual fee shall be Five Hundred (\$500) dollars.

D. In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

**Section 257-5 Exceptions** is amended by adding the following:

L. Any other provision of this Ordinance notwithstanding, any commercial use existing prior to the adoption of Ordinance No 91-8-5 on August 5, 1991 shall have the right to continue operating up to 75 dba between the hours of 7:00 AM to 6:00 PM, and this chapter shall not apply to all sounds of 75 dba or less that are transmitted beyond its property line during the aforesaid hours.

*Town of Portsmouth, RI  
Thursday, November 5, 2015*

## Chapter 257. Noise

[HISTORY: Adopted by the Town Council of the Town of Portsmouth 8-5-1991 by Ord. No. 91-8-5. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Alarms — See Ch. **83**.

Nuisances — See Ch. **260**.

### § 257-1. Findings; declaration of policy.

The Portsmouth Town Council hereby finds and declares that:

- A. Excessive noise is a serious hazard to the public health and welfare and the quality of life.
- B. A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
- C. Certain of the noise-producing equipment in this community is essential to the quality of life herein and should be allowed to continue at reasonable levels with moderate regulation.
- D. Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.
- E. It is declared policy of the Town to promote an environment free from excessive noise, otherwise properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community.

### § 257-2. Purpose; title; applicability.

- A. The purpose of this chapter is to establish standards for the control of noise pollution in the Town by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.
- B. This chapter may be cited as the "Noise Abatement Ordinance" of the Town.
- C. This chapter shall apply to the control of all noise originating within the limits of the Town or originating from properties lying outside the limits of the Town owned or controlled by the Town, except where either:
  - (1) A state or federal agency has adopted a different standard or rule than that prescribed in this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto; or

- (2) The Council has determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the Town.

## § 257-3. Measurement of sound.

- A. If the measurements of sound are made with a sound-level meter, it shall be an instrument in good operating condition and meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this chapter, a sound-level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.
- B. If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in ANSI Standard 1.4-1971 for Type II instruments.
- C. When the location or distance prescribed in this chapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this chapter.
- D. Procedures and tests required by this chapter and not specified herein shall be placed on file with the Town Clerk.

## § 257-4. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following words and terms shall have the meanings given. Definitions of technical terms used in this chapter, which are not herein defined, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

### **AMBIENT SOUND LEVEL**

The noise associated with a given environment, exclusive of a particular noise being tested, being usually a composite of sounds from many sources near and far, exclusive of intruding noises from isolated identifiable sources.

### **ANSI**

The American National Standards Institute or its successor body.

### **A-SCALE (dBA)**

The sound level in decibels measured using the A-weighted network as specified in ANSI Standard 1.4-1971 for sound-level meters. The level is designated dB(A) or dBA.

### **CONSTRUCTION**

Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

### **DECIBEL (DB)**

A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

### **DEMOLITION**

Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DWELLING UNIT**

A building or portion thereof regularly used for residential occupancy.

**EMERGENCY WORK**

Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

**IMPULSIVE SOUND**

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

**LOT**

Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting platted lots under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

**MOTORBOAT**

See "watercraft."

**MOTORCYCLE**

Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles, motor scooters, mopeds and the like.

**MOTOR VEHICLE**

Any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

**NARROW BAND SOUND**

Sound characterized by normal listeners as having a predominant pitch or series of pitches; sound described by such listeners as "whine," "hiss," "toot" or "wail"; or a sound whose frequencies occupy an octave band or less.

**NOISE DISTURBANCE**

Any sound which exceeds the dBA level for such sound set out in this chapter; the making, creation or permitting of any unreasonably loud, disturbing or unnecessary noise; or the making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual, or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual.

**OFF-ROAD RECREATIONAL VEHICLE**

Any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

**PERSON**

Any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the Town.

**PHYSICAL CHARACTERISTICS OF SOUND**

The steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

**PLAINLY AUDIBLE**

Any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible rhythms.

**POWERED MODEL VEHICLE**

Any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

**PUBLIC SPACE**

Any real property, including any structure thereon, which is owned or controlled by a governmental entity.

**PURE TONE**

Any sound which can be distinctly heard as a single pitch or set of single pitches.

**REAL PROPERTY BOUNDARY**

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

**RECEIVING LAND USE**

The use or occupancy of the property which receives the transmission of sound.

**RESIDENTIAL PROPERTY**

Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

**SOUND**

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

**SOUND LEVEL**

The weighted sound-pressure level obtained by the use of a sound-level meter and frequency weighting network, such as A, B or C, as specified in ANSI specifications for sound-level meters (ANSI Standard 1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**SOUND-LEVEL METER**

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or display meter, and weighting networks, used to measure sound-pressure levels, which complies with ANSI Standard 1.4-1971.

**SOUND PRESSURE**

The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

**SOUND-PRESSURE LEVEL**

Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6} \text{N/M}^2$ ). The sound-pressure level is denoted "Lp" or "SPL" and is expressed in decibels.

**STEADY SOUND**

A sound whose level remains essentially constant (+/- 2 dBA) during the period of the sound-level meter.

**TOWN**

The Town of Portsmouth, Rhode Island, or the area within the territorial limits of the Town, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of ownership or any constitutional or Charter provision or any law.

**USED AND OCCUPIED**

Include the words "intended, designed or arranged to be" (used or occupied).

**WATERCRAFT**

Any contrivance used, or capable of being used, as a means of transportation or recreation on water.

**ZONING DISTRICTS**

Those districts established in the Zoning Ordinance and indicated on the Official Zoning Map or in the Zoning Ordinance.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 405, Zoning.*

**§ 257-5. Exceptions.**

The provisions of this chapter shall not apply to:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency;
- B. The emission of sound in the performance of emergency work;
- C. Noncommercial public speaking and public assembly activities conducted on any private property, public space or public right-of-way, except those activities controlled by § 257-11;
- D. The unamplified human voice, except those activities controlled by § 257-9;
- E. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;
- F. The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty;
- G. The emission of sound in the discharge of weapons between 6:00 a.m. and 9:00 p.m.;
- H. The emission of sound in the discharge of fireworks displays licensed by the Town between the hours of 9:30 p.m. and 10:00 p.m. only, except with special permission granted by the Town Council;  
[Amended 7-9-2007 by Ord. No. 2007-07-09]
- I. The emission of sound in the operation of snow removal equipment;
- J. The emission of sound relative to permitted construction and demolition activities, provided that such activities do not occur between 9:00 p.m. and 7:00 a.m.; and
- K.

The emission of sound relative to the operation of yard or lawn maintenance equipment or machinery, provided such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. the following day.

**§ 257-6. Noise disturbances prohibited.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

**§ 257-7. Maximum permissible sound levels by receiving land use.**

- A. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I  
Maximum Sound Levels by Receiving Land Use**

<b>Location of Receiving Land Use</b>	<b>Time</b>	<b>Sound Limit (dBA)</b>
Zoning district:		
Residential and Open Space	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
	Commercial and Waterfront	75
Light and Heavy Industrial	At all times	75
Other:		
Public water	At all times	75

- B. For any source of sound which emits a pure tone, the maximum sound-level limits set forth hereinabove shall be reduced by five dBA.
- C. Exceptions to Table I are activities covered by the following sections: §§ 257-8, 257-11, 257-12, 257-14 and 257-18.

**§ 257-8. Emergency signaling devices.**

- A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection B hereof.
- B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed or at such other time as may be permitted by the Police Department or Fire Department, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

**§ 257-9. Specific activities prohibited.**

- A. Sales by hawking or barking. No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary.
- B. Vehicle or motorboat repairs or testing. No person shall create a noise disturbance by repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorized watercraft.
- C. Powered model vehicles. No person shall create a noise disturbance by operating or permitting the operation of a powered model vehicle in a public or private space out of doors between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- D. Revelry. No person shall yell, shout, hoot, whistle, sing or make or cause to be made any other noise on the public streets between the hours of 10:00 p.m. and 7:00 a.m. of the following day, or at any other time or place, so as to annoy or disturb the quiet, comfort or repose of any person in any hospital, dwelling, hotel or other type of residence or of any person in the vicinity.
- E. Fireworks. Notwithstanding the provisions of § 257-5H, no person shall create a noise disturbance by the emission of sound in the discharge of fireworks, unless said person shall be duly licensed by the appropriate state and local authority.

## § 257-10. Musical instruments and similar devices.

No person shall operate, play or permit the operation or playing of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary.

## § 257-11. Sound-amplifying equipment.

Except for activities open to the public and for which a permit and a noise variance have been issued by the Town, no person shall operate, play or permit the operation or playing of any radio, television, phonograph or other sound-amplifying equipment so as to create a noise disturbance.

## § 257-12. Motorized vehicles.

- A. No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more for a consecutive period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.
- B. No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in Table II for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which such vehicle or vehicles are operated. Such noise shall be measured at a distance of not more than 50 feet from the center line of travel under test procedures established by Subsection C hereof. If the distance of the measuring instrument from the center line of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

**Table II**  
**Noise Limit in Relation to Legal Speed Limit**

Type of Vehicle	35 mph or Less [db(A)]	Over 35 mph [db(A)]
(1) Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	88	92
(2) Any motorcycle	82	86
(3) Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	76	82

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of any laws relating to motor vehicle muffler or noise control.

- C. The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by ANSI. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a prior representation of the noise source. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources shall be noted and adjustments made so that these and other background noise do not interfere with the primary noise being measured.
- D. Every motor vehicle and motorcycle shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dBA levels set forth in Table II. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway.
- E. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler or bypass, and no person shall operate a motor vehicle or motorcycle which has been so modified.
- F. No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real property boundary.
- G. Motorized watercraft shall be governed by the sound levels set forth in Table I. Every motorized watercraft shall be equipped with a muffler in good working order and constant operation to prevent noise which exceeds the dBA level set forth in Table I for public water.

### § 257-13. Construction noise.

- A. No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities, which creates a noise disturbance across a residential real property boundary.
- B. This section shall not apply to:
  - (1) Emergency work or repair work performed by and for governmental entities or public service utilities; or

- (2) Work for which a variance has been obtained from Council.
- C. The use of domestic power tools or equipment is subject to the noise levels set forth in Table I.
- D. Properly permitted construction and/or demolition activities are allowed between the hours of 7:00 a.m. and 9:00 p.m. each day.

### § 257-14. Stationary nonemergency signaling devices.

- A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place, for more than one minute in any one hour.
- B. Devices used in conjunction with places of religious worship shall be exempt from the operation of this section.
- C. Exemptions for sound sources covered by this section, but not exempted under § 257-13B, may be granted by Council under the procedure set forth in § 257-18.

### § 257-15. Animals and birds.

The owner, possessor or keeper of any animal or bird shall be deemed to have violated this chapter if such animal or bird frequently or for a continued duration emits sound that is natural to the species, which sound exceeds the dBA level set forth in Table I.

### § 257-16. Implementation, administration and enforcement.

- A. This chapter shall be implemented, administered and enforced by the Police Department.
- B. The provisions of this chapter which prohibit a person from making or continuing noise disturbances, or causing the same to be made or continued, across a real property boundary or within a noise sensitive area shall be enforced by the Police Department.
- C. To implement and enforce this chapter, the Police Department shall have the power to:
  - (1) Conduct research, monitoring and other studies related to sound;
  - (2) Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations;
  - (3) Coordinate the noise control activities of all Town departments;
  - (4) Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause sound in violation of this chapter;
  - (5) Issue sound variances granted pursuant to § 257-18.
- D. Whenever a violation of this chapter occurs and two or more persons are present in or on the lot from which the sound emanates, and it is impossible to determine which of such persons is the violator, the owner of the lot, if present, shall be presumed responsible for the violation. In the

absence of such owner, the tenant or tenants of such lot or any person present with the direct consent of the owner shall be held responsible for the violation.

- E. In the case of continuing violations, the Town Solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot.

## § 257-17. Department actions.

All departments and agencies of the Town shall carry out their programs in furtherance of the policies set forth in this chapter.

## § 257-18. Sound variances.

- A. Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.
- B. Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.
- C. All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.
- D. In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.
- E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.
- F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

## § 257-19. Violations and penalties.

- A. Violation of this chapter shall be punishable by a fine of not more than \$100 and/or imprisonment for not more than 30 days.
- B. Holders of alcoholic beverage licenses.

- (1) In addition to any other penalty set forth herein, any holder of a Class A, B, B Ltd., C or D liquor license who shall be cited for violation of the provisions of this chapter twice within a period of six months shall, upon complaint by the Police Department to the Town Council sitting as a Board of License Commissioners, be summoned to appear before the Board to show cause why disciplinary action should not be taken against said license holder for violation of state or local laws, ordinances or regulations.
- (2) The license holder shall be served with a notice of the date, time and place of any such hearing.
- (3) The license holder has the right to be present at any such hearing, to be represented by counsel if he/she so chooses, to cross-examine witnesses and to present sworn testimony on his or her own behalf.
- (4) After hearing, the Board may, if it finds that a violation has occurred, take disciplinary action against the license holder, including, but not limited to, suspension and/or revocation of the license.

**TOWN OF PORTSMOUTH, RI**  
**NOTICE OF PUBLIC HEARING**  
**PROPOSED AMENDMENTS TO CHAPTER 257 OF THE**  
**PORTSMOUTH TOWN CODE - NOISE ORDINANCE**  
**§257-5 Exceptions, Section L and**  
**§257-18 Sound Variances, Section C**

The Portsmouth Town Council will hold a Public Hearing on Monday, December 14, 2015, at 7:00 p.m., in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI to consider adoption of amendments to the Town of Portsmouth Town Code Chapter 257 - Noise Ordinance.

**§257-5 Exceptions** – Proposed amendment is as follows:

- L. Any other provision of this Ordinance notwithstanding, any commercial use existing prior to the adoption of Ordinance No 91-8-5 on August 5, 1991 shall have the right to continue operating up to 75 dBA between the hours of 7:00 AM to 6:00 PM, and this chapter shall not apply to all sounds of 75 dBA or less that are transmitted beyond its property line during the aforesaid hours.

**§257-18 Sound Variances** – Proposed amendment as follows:

- C. 1. All applications shall be accompanied by an application fee in an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.
2. If a temporary variance is granted, the fee shall be \$50 per day.
3. For any business whose operation is at a fixed location, if a variance is granted, the annual fee shall be Five Hundred (\$500) dollars.

The full text of the Noise Ordinance is available at the Portsmouth Town Clerk's Office, Monday through Friday, between the hours of 9:00 am and 4:00 pm. Those persons wishing to speak should plan to attend and express their views.

The Town Hall is handicap accessible. TDD/Voice/Hearing impaired, please call the Town Clerk's Office at 683-2101 three business days prior to the Hearing.

Joanne M. Mower, Town Clerk

683-2101

NDN  
12/5/15

## Noise Ordinance

Town in RI	Zoning District	Time (Day and Night)	Sound Limit dB(A)
EPA	Environmental	At all times	70
	Outdoors	At all times	55
	Indoors	At all times	45
Portsmouth	Residential	7 a.m. to 10 p.m.	65
		10 p.m. to 7 a.m.	55
	Commercial and Waterfront	At all times	75
	Light and Heavy Industrial	At all times	75
	Public Water	At all times	75
Narragansett	Residential	8 a.m. to 10 p.m.	60
		All other times	50
	Business	All other times	65
	Industrial	8 a.m. to 10 p.m.	55
		All other times	70
Middletown	Residential	7 a.m. to 10 p.m.	65
		10 p.m. to 7 a.m.	55
	Business	At all times	75
	Public Waterway	At all times	65
	Noise Sensitive Area	7 a.m. to 10 p.m.	65
		10 p.m. to 7 a.m.	55
Westerly	Residential	8 a.m. to 10 p.m.	65
		10 p.m. to 8 a.m.	60
	Business	8 a.m. to 10 p.m.	75
		10 p.m. to 8 a.m.	75
	Professional	8 a.m. to 10 p.m.	75
		10 p.m. to 8 a.m.	75
	Manufacturing	8 a.m. to 10 p.m.	70
		10 p.m. to 8 a.m.	60
	Agriculture	8 a.m. to 10 p.m.	70
		10 p.m. to 8 a.m.	60
	Noise-Sensitive Area	8 a.m. to 10 p.m.	65
		10 p.m. to 8 a.m.	55
East Greenwich	Residential	10 p.m. to 7 a.m.	55
		7 a.m. to 10 p.m.	60
	Farming	10 p.m. to 7 a.m.	55
		7 a.m. to 10 p.m.	60
	Commercial	10 p.m. to 7 a.m.	65
		7 a.m. to 10 p.m.	70
	Waterfront	10 p.m. to 7 a.m.	65
		7 a.m. to 10 p.m.	70

	Industry	Anytime	75
Tiverton	Residential	7 a.m. to 10 p.m.	60
		10 p.m. to 7 a.m.	55
	Commercial	At all times	70
	Industrial	At all times	70
	Public Waterway	At all times	70
Bristol	Residential	Daytime	60
		All other times	50
	Business	Daytime	65
		All other times	55
	Waterfront	All other times	65
	Commercial Industrial	All other times	70
Warren	Residential	7 a.m. to 10 p.m.	65
		10 p.m. to 7 a.m.	55
	Business (General, Waterfront, Manufacturing)	At all times	75
Jamestown	Residential	8 a.m. to 10 p.m.	70
		10 p.m. to 8 a.m.	60
	Business (General, Waterfront, Neighborhood)	At all times	75
	Public	At all times	75
Newport	Residential	7 a.m. to 10 p.m.	65
		10 p.m. to 7 a.m.	55
	Business (General, Waterfront)	1 a.m. to 7 a.m.	55
		All other times	75
	Commercial/ Industrial	1 a.m. to 7 a.m.	55
		All other times	75
	Public Water	1 a.m. to 7 a.m.	55
		All other times	65
	Noise Sensitive Area	7 a.m. to 10 p.m.	65
10 p.m. to 7 a.m.		55	

## Menu



## About EPA

# EPA Identifies Noise Levels Affecting Health and Welfare

**NOTE:** In the past, EPA coordinated all federal noise control activities through its Office of Noise Abatement and Control (ONAC). However, In 1981, the White House concluded that noise issues were best handled at the state or local government level. As a result, EPA shifted noise control policy to transfer the primary responsibility of regulating noise to state and local governments. ONAC's funding was phased out in 1992. The Noise Control Act of 1972 and the Quiet Communities Act of 1978, however, have never been rescinded by Congress and remain in effect today, although essentially unfunded. View more information about noise pollution from EPA's Office of Air and Radiation and in our Frequently Questions database.

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### [EPA press release - April 2, 1974]

Noise levels requisite to protect public health and welfare against hearing loss, annoyance and activity interference were identified today by the Environmental Protection Agency. These noise levels are contained in a new EPA document, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety."

One of the purposes of this document is to provide a basis for State and local governments' judgments in setting standards. In doing so the information contained in this document must be utilized along with other relevant factors. These factors include the balance between costs and benefits associated with setting standards at particular noise levels, the nature of the existing or projected noise problems in any particular area, the local aspirations and the means available to control environmental noise.

The document identifies a 24-hour exposure level of 70 decibels as the level of environmental noise which will prevent any measurable hearing loss over a lifetime. Likewise, levels of 55 decibels outdoors and 45 decibels indoors are identified as preventing activity interference and annoyance. These levels of noise are considered those which will permit spoken conversation and other activities such as sleeping, working and recreation, which are part of the daily human condition.

The levels are not single event, or "peak" levels. Instead, they represent averages of acoustic energy over periods of time such as 8 hours or 24 hours, and over long periods of time such as years. For example, occasional higher noise levels would be consistent with a 24-hour energy average of 70 decibels, so long as a sufficient amount of relative quiet is experienced for the remaining period of time.

Noise levels for various areas are identified according to the use of the area. Levels of 45 decibels are associated with indoor residential areas, hospitals and schools, whereas 55 decibels is identified for certain outdoor areas where human activity takes place. The level of 70 decibels is identified for all areas in order to prevent hearing loss.

Last updated on May 20, 2015

# Narragansett, RI

Sec. 22-46. Noise disturbance prohibited generally.

(a) No person shall make, continue or cause to be made or continued, except as permitted in this article, any noise or sound which constitutes a noise disturbance. In the absence of specific maximum noise levels, a noise level must exceed the ambient noise level by five dBA or more, when measured at the nearest property line or, in the case of a multifamily residential building, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, in order to constitute a noise disturbance.

(b) Any person, including a police officer, or a municipal zoning or building official, may be a complainant for the purposes of instituting action for any violation of this chapter. For any violation of this section, the receiving land use involved may include real property contiguous to, or bounding the real property containing the source of the sound which is the subject of the violation.

(Code 1986, § 9-15; Ch. 849, § 1, 7-7-2004)

Sec. 22-47. Maximum permissible sound levels by receiving land use.

(a) With the exception of sound levels elsewhere specifically authorized or allowed in this article or exempted by this article or by variance, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

Table I. Zoning District Noise Standard

Maximum Allowable Octave Band Sound Pressure Levels

TABLE INSET:

Octave band center frequency (HZ)	Residential		Business Zones (BA, BB, and BC)			Industrial Zones (IA and IB)	
	Daytime *	All other times	of all measurement (HZ)		Daytime *	All other times	
31.5	76	68	79	72	83		
63	75	67	78	71	83		
125	69	61	73	65	77		
250	62	52	68	57	73		
500	56	46	62	51	67		
1,000	50	40	56	45	61		
2,000	45	33	51	39	57		
4,000	40	28	47	34	53		
8,000	38	26	44	32	50		
Single number equivalent			60 dB(A)	50 dB(A)	65 dB(A)	55 dB(A)	
	70 dB(A)						

\*8:00 a.m.--10:00 p.m.

(b) For any source of sound which emits a pure tone, the maximum sound level limits set forth in subsection (a) of this section shall be reduced by five dBA.

(c) Exceptions to table I are activities covered by sections 22-48, 22-52, 22-54, and 22-59.

(Code 1986, § 9-16; Ch. 849, § 1, 7-7-2004)

Sec. 22-48. Emergency signaling devices.

(a) No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b) of this section.

(b) Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

(Code 1986, § 9-17)

Sec. 22-49. Specific activities prohibited.

The following actions are prohibited only when causing a noise disturbance as defined in this article:

(1) Hawkers and peddlers. No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.

(2) Vehicle or motorboat repairs or testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.

(3) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning.

(4) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(5) Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m.

(6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such condition as to create a noise disturbance.

(8) Loading, unloading, opening boxes. The creation of a noise disturbance in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(9) Schools, courts, churches, hospitals. The creation of any noise disturbance on any street adjacent to any school, institution of learning, church or court while the school, institution of learning, church or court are in use, or adjacent to any hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(10) Disorderly house. No person shall do either of the following:

- a. Keep a disorderly house whereby the peace, comfort, or decency of a neighbor is habitually disturbed; or
- b. Being the owner of and in control of the premises to permit them to be so used;
- c. For purposes of this section a disorderly house is defined as a residence or dwelling in which two noise disturbances resulting in convictions in the municipal court have occurred within a period of 12 months or less;
- d. The owner of any such residence or dwelling may assert as a defense reasonable efforts to take action against the perpetrators of the violation of this article, including the initiation of eviction proceedings pursuant to Rhode Island General Laws.

(Code 1986, § 9-18; Ch. 849, § 1, 7-7-2004)

Sec. 22-50. Musical instruments and similar devices.

No person shall operate, play or permit the operation of any musical instrument, phonograph or other machine or device for the production or reproduction of sound, including but not limited to any stereo, radio, television, musical instrument or other noise making device for the producing or reproducing of sound within a motor vehicle, using or operating such instrument or device and such persons who are voluntarily listeners thereto or in such manner as to constitute a noise disturbance. In addition, the operation of any such instrument, phonograph, television, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be a violation of this section; provided, that nothing contained in this section shall prohibit performances by the ringing of bells in a tower, or by a band or orchestra in a hall, building or in the open air that is otherwise in compliance with local ordinances.

(Code 1986, § 9-19; Ch. 849, § 1, 7-7-2004)

# Middletown, RI

## **NOISE**

### **§ 130.75 PURPOSE.**

(A) The purpose of this section is to establish standards for the control of noise pollution in the town by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.

(B) This subchapter may be cited as the "Noise Abatement Chapter" of this town.

(C) This subchapter shall apply to the control of all noise originating within the limits of the town or originating from properties lying outside the limits of the town owned or controlled by the town, except where either:

(1) A state or federal agency has adopted a different standard or rule than that prescribed in this chapter and has so pre-empted the regulation of noise from a particular source as to render this subchapter inapplicable thereto; or

(2) The Town Council has determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the town. (Ord. passed 8-5-91)

### **§ 130.76 DEFINITIONS.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall have the meanings given. Definitions of technical terms used in this subchapter, which are not herein defined, shall be obtained from publications of acoustical terminology issued by A.N.S.I. or its successor body.

**A-SCALE (dBA).** The sound level in decibels measured using the A-weighted network as specified in A.N.S.I. Standard 1.4-1971 for sound level meters. The level is designated db(A) or dBA.

**AMBIENT SOUND LEVEL.** The noise associated with a given environment, exclusive of a particular noise being tested, being usually a composite of sounds from many sources near and far, exclusive of intruding noises from isolated identifiable sources.

#### **Middletown - General Offenses**

**A.N.S.I.** The American National Standards Institute or its successor body.

**CONSTRUCTION.** Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

**DECIBEL (dB).** A logarithmic and dimensionless unit of measure of 10 used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

**DEMOLITION.** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DWELLING UNIT.** A building or portion thereof regularly used for residential occupancy.

**DYNAMIC BRAKING DEVICE.** A device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

**EMERGENCY WORK.** Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

**IMPULSIVE SOUND.** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

**LOT.** Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting "platted lots" under the same ownership shall be considered a "lot." The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

**MIXED USE.** A dwelling unit or school located in a commercial or industrial zone.

**MOTOR VEHICLE.** Any motor-operated vehicle licensed for use on the public highways. but not including a motorcycle.

**MOTORBOAT.** See watercraft.

**MOTORCYCLE.** Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles. motor scooters, mopeds and the like.

**NARROW BAND SOUND.** Sound characterized by normal listeners as having a predominant pitch or series of pitches; sound described by such listeners as "whine," "hiss," "toot," or "wail;" or a sound whose frequencies occupy an octave band or less.

**NOISE.** With the exception of farm implements and farm animals, time signals, fire, police or ambulance sirens, burglar alarms, refrigerator system alarms and noise customarily involved in the construction or demolition of buildings or other structures, it is a noise which is objectionable due to volume, intermittence, beat frequency or shrillness, occurring on any premises, which is transmitted outside the property on which it originates.

**NOISE DISTURBANCE.** Any sound which exceeds the dBA level for such sound set out in this subchapter.

**NOISE SENSITIVE ACTIVITIES.** Activities which should be conducted under conditions of exceptional quiet, including, but not limited to, operation of schools, libraries open to the public, churches, hospitals and nursing homes.

**NOISE SENSITIVE AREA.** Any area posted with noise sensitive signs and subject to the noise levels set forth in the table in § 130.80.

**NONCONFORMING USE.** A use of a structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to the Zoning Ordinance of the town, but which is not a permitted use in the zone in which it is now located.

**OFF-ROAD RECREATIONAL VEHICLE.**

Any

**General Offenses**

motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

**PERSON.** Any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the town.

**PHYSICAL CHARACTERISTICS OF SOUND.** The steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

**PLAINLY AUDIBLE.** Any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensive of whether a voice is raised or normal or comprehensive rhythms.

**POWERED MODEL VEHICLE.** Any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**PUBLIC RIGHT-OF-WAY.** Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

**PUBLIC SPACE.** Any real property, including any structure thereon, which is owned or controlled by a governmental entity.

**PURE TONE.** Any sound which can be distinctly heard as a single pitch or set of single pitches.

**REAL PROPERTY BOUNDARY.** An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

**RECEIVING LAND USE.** The use or occupancy of the property which receives the transmission of sound.

**RESIDENTIAL PROPERTY.** Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

**SOUND.** An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

**SOUND LEVEL.** The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in A.N.S.I. specifications for sound level meters (A.N.S.I. Standard 1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**SOUND LEVEL METER.** An instrument which includes microphone, amplifier, RMS detector, integrator or time averager, output or display meter, and weighting networks, used to measure sound pressure levels, which complies with A.N.S.I. Standard 1.4-1971.

**SOUND PRESSURE.** The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

**SOUND PRESSURE LEVEL.** Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

**STEADY SOUNDS.** A sound whose level remains essentially constant ( $\pm 2$  dBA) during the period of the sound level meter.

**TOWN.** The Town of Middletown, Rhode Island.

**USED and OCCUPIED.** These terms include the words "intended, designed or arranged to be" (used or occupied).

(C) Noncommercial public speaking and public assembly activities conducted on any private property, public space or public right of way;

**WATERCRAFT.** Any contrivance used, or capable of being used, as a means of transportation or recreation on water.

**ZONING DISTRICTS.** Those districts established in the Zoning Ordinance and indicated on the Official Zoning Map.  
(Ord. passed 8-5-91)

#### § 130.77 MEASUREMENT OF SOUND.

(A) If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified by A.N.S.I. Standard 1.4-1971. For purposes of this section, a sound level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.

(B) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in A.N.S.I. Standard 1.4-1971 for Type II instruments.

(C) When the location or distance prescribed in this subchapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this subchapter.

(D) Procedures and tests required by this subchapter and not specified herein shall be placed on file with the Town Clerk.  
(Ord. passed 8-5-91)

#### § 130.78 EXCEPTIONS.

The provisions of this subchapter shall not apply to:

(A) The emission of sound for the purpose of alerting persons to the existence of an emergency;

(B) The emission of sound in the performance of emergency work;

(D) Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;

(E) The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty;

(F) The emission of sound in the discharge of weapons or in fireworks displays licensed by the town, from 7:00 a.m. to 11:00 p.m.;

(G) The emission of sound in the operation of snow removal equipment; and

(H) The emission of sound relative to permitted construction and demolition activities, provided that such activities do not occur between 9:00 p.m. and 7:00 a.m.  
(Ord. passed 8-5-91)

**§ 130.79 NOISE DISTURBANCES PROHIBITED.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this subchapter.  
(Ord. passed 8-5-91) Penalty, see § 130.99

**§ 130.80 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE.**

(A) With the exception of sound levels elsewhere specifically authorized or allowed in this subchapter, the following table sets forth the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

<b>SOUND LEVELS BY RECEIVING LAND USE</b>		
<b>Location of Receiving Land Use</b>	<b>Time</b>	<b>Sound Limit</b>
Zoning District: Residential	7 a.m. to 10 p.m. 10 p.m to 7 a.m.	65 dBA 55 dBA
Zoning District: General Business, Office Business, Limited Business, Light Industrial, and Municipal Industrial Park	At all times	75 dBA
Other: Public Water	At all times	65 dBA
Other: Noise Sensitive Area	7 a.m. to 10 p.m. 10 p.m. to 7 a.m.	65 dBA 55 dBA

**General Offenses**

(B) Notwithstanding any other provision of this subchapter, the maximum permissible sound levels, at all times, allowed at or within the real property of a receiving land use, shall be 55 dBA, for sound levels emitting from any business with a liquor license.  
(Ord. passed 12-6-93)

(C) For any source of sound which emits a pure tone, the maximum sound level limits set forth herein above shall be reduced by five dBA.

(Ord. passed 8-5-91)

**§ 130.81 EMERGENCY SIGNALING DEVICES.**

(A) No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in

division (B) below.

(B) Testing of a stationary emergency signaling device will occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.  
(Ord. passed 8-5-91) Penalty, see § 130.99

### **§ 130.82 SPECIFIC ACTIVITIES PROHIBITED.**

(A) *Sales by "Hawking" or "Barking."* No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary or in a noise sensitive area.

(B) *Vehicle or Motorboat Repairs or Testing.* No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motor boat in such a manner as to cause a noise disturbance across a real property boundary or within a noise sensitive area.

(C) *Powered Model Vehicles.* No person shall operate or permit the operation of a powered model vehicle in a public or private space out of doors or within a noise sensitive area between the hours of 10:00 p.m. and 7:00 a.m. the following day.  
(Ord. passed 8-5-91) Penalty, see § 130.99

### **§ 130.83 MUSICAL INSTRUMENTS AND SIMILAR DEVICES.**

No person shall operate, play or permit the operation or playing of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a

on the legal speed limit, posted or not, of the road or way on which such vehicle or vehicles are operated. Such noise shall be measured at a distance of not more than 50 feet from the center line of travel under test procedures established by (D) below. If the distance of the measuring instrument from the center line of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

residential real property boundary or outdoors within a noise sensitive area.  
(Ord. passed 8-5-91) Penalty, see § 130.99

### **§ 130.84 REGULATION OF SOUND EQUIPMENT AND SOUND AMPLIFYING EQUIPMENT.**

Except for activities open to the public and for which a permit or a noise variance having been issued by the town, no person shall operate, play or permit the operation or playing of any radio, television, phonograph or other sound amplifying equipment so as to create a noise disturbance.  
(Ord. passed 8-5-91) Penalty, see § 130.99

### **§ 130.85 MOTORIZED VEHICLES.**

(A) No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more for a consecutive period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pick-up vehicles that require the operation of the engine to unload or load their vending loads.

(B) No person shall operate, within the speed limits specified in this division, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in the table in (C) below for the category of motor vehicle, based

(C) *Noise limit in relation to the legal speed limit.* The table below applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of the town code relating to motor vehicle muffler or noise control:

<b>NOISE IN RELATION TO LEGAL SPEED LIMIT</b>
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Type of Vehicle	38 mph or less	Over 38 mph
Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	88 dBA	92 dBA
Any motorcycle	82 dBA	86 dBA
Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	76 dBA	82 dBA

(D) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by A.N.S.I. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noise interfere with the primary noise being measured.

(E) Every motor vehicle and motorcycle shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dBA levels set forth in the table in (C) above. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. Every motorboat shall at all times be equipped with a muffler in good working order and

in constant operation to prevent noise which exceeds the dBA levels set forth in the table in (C) for 35 mph or less.

(F) No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler or bypass and no person shall operate a motor vehicle or motorcycle which has been so modified.

(G) No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real property boundary or in a noise sensitive area.

(Ord. passed 8-5-91) Penalty, see § 130.99

**§ 130.86 CONSTRUCTION.**

(A) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities, which creates a noise disturbance across a residential real property boundary or within a noise sensitive area.

(B) This section shall not apply to:

(1) Emergency work or repair work performed by and for governmental entities or public service utilities; or

(2) Work for which a variance has been obtained from the Town Council.

(C) The use of domestic power tools or equipment is subject to the noise levels set forth in the table in § 130.80.

(Ord. passed 8-5-91) Penalty, see § 130.99

**§ 130.87 STATIONARY NON-EMERGENCY SIGNALING DEVICES.**

(A) No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any one hour.

(B) Devices used in conjunction with places of religious worship shall be exempt from the operation of this section.

(C) Variances for sound sources covered by this section, may be granted by the Town Council. (Ord. passed 8-5-91) Penalty, see § 130.99

**§ 130.88 ANIMALS AND BIRDS.**

No person shall own, possess or harbor any animal or bird which frequently or for a continued duration emits sound that is native to the species, which sound exceeds the dBA levels set forth in the table in § 130.80.

(Ord. passed 8-5-91) Penalty, see § 130.99

**§ 130.89 IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT.**

(A) This subchapter shall be implemented, administered and enforced by the Police Department or any other town department or division designated by the Director of Public Safety.

(B) The provisions of this subchapter which prohibit a person from making or continuing noise disturbances, or causing the same to be made or continued, across a real property boundary or within a noise sensitive area, shall be enforced by the Police Department or any other town department or division designated by the Director of Public Safety.

(C) To implement and enforce this subchapter, the Police Department, or any other duly designated town agency, shall have the power to:

(1) Conduct research, monitoring and other studies related to sound;

(2) Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this subchapter and the procedures for reporting violations;

(3) Coordinate the noise control activities of all town departments;

(4) Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this subchapter, if these projects are likely to cause sound in violation of this subchapter;

(5) Issue sound variances pursuant to § 130.91;

(6) Prepare recommendations for consideration by Council, after publication of notice and after a public hearing, for establishing the boundaries of noise sensitive areas.

(D) Whenever a violation of this subchapter occurs and two or more persons are present in or on the lot from which the sound emanates and it is impossible to determine which of said persons is the

## Middletown - General Offenses

violator, the owner of the lot shall be presumed responsible for the violation if present; in the absence of such owner, the tenant or tenants of such lot or any person present with the direct consent of the owner shall be held responsible for the violation.

(E) In the case of continuing violations, the Town Solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot. (Ord. passed 8-5-91)

### § 130.90 DEPARTMENTAL ACTIONS.

All departments and agencies of the town shall carry out their programs in furtherance of the policies set forth in this subchapter. (Ord. passed 8-5-91)

### § 130.91 PERMITS AND SOUND VARIANCES.

(A) The Police Department, upon written application, shall have the authority, consistent with this section, to issue to each property in the town not more than one permit per year, provided any such permit is limited in duration to a period not to exceed 12 hours. The failure of the Police Department to issue a sound permit, after a written application, shall not preclude an application for a sound variance as hereinafter provided.

(B) The Town Council shall have the authority, consistent with this section, to grant sound variances from this subchapter after public hearing.

(C) Any person seeking a sound variance under this section shall file an application with the Town Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this subchapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

(D) All applications for sound variances shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the real property boundary from which the noise source emanates. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the town. Notification shall be by regular mail at least seven days prior to the public hearing.

(E) In determining whether to grant or deny an application, or revoke a variance previously granted, the Town Council shall balance the hardship to the applicant, the community and other persons if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that the Town Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, the Town Council shall file in the Office of the Town Clerk a copy of the decision and the reasons for granting, denying or revoking the sound variance.

(F) Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this subchapter regulating the source of sound or activity for which the sound variance was granted.

(G) Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications. (Ord. passed 8-5-91)

**§ 130.99 PENALTY.**

(A) Any person, firm or corporation whether as principal, agent, employee or otherwise, who violates any of the provisions of §§ 130.01 - 130.04, 130.21, 130.32(I) or 130.75 - 130.91 shall be subject to the following penalty:

(1) For a first offense, \$100. The person charged with a violation of any provision of §§ 130.01 - 130.04, 130.21, 130.32(I) or 130.75 - 130.91 shall, for a first offense, be given the opportunity to pay the fine assessed by mail which shall be indicated on the summons issued by the charging officer. Should the alleged violator elect not to pay the fine assessed by mail, said person shall be entitled to a hearing before the Municipal Court.

(2) For any second or subsequent violation of §§ 130.01 - 130.04, 130.21, 130.32, or 130.75 - 130.91, a hearing before the Municipal Court is required, and the alleged violators shall be subject to the penalties as outlined in § 10.99. (Ord. passed 8-21-00)

(B) Any person violating any provision of this chapter for which there is not otherwise a penalty shall be subject to the penalty of § 10.99. ('73 Code, § 16-9) (Ord. passed 10-2-72)

(C) Any person, firm or corporation who shall sell or allow to be sold or delivered to any person under 18 years of age tobacco products except as permitted by § 130.38 shall for the first offense be subject to a fine of \$200, for the second offense, be subject to a fine of \$350, and for the third and any subsequent offense, be subject to a fine of \$500; provided however, that in the event that there are no offenses in three successive years from the date of the last offense, then the next offense shall be treated as a first offense. (Ord. passed 6-20-95)

(D) Any person under 18 years of age who shall violate the provisions of § 130.38(A) or (C) shall be subject to a fine of \$100, for the first offense and \$250 for the second offense and subsequent offenses and/or shall be required to perform community service. (Ord. passed 6-20-95)

(E) Any person, firm, or corporation who owns a business occupying the premises in which a device or vending machine which dispenses cigarettes or any other tobacco product is located who shall violate any of the provisions of § 130.39(A), (B) and (C), and any person, firm or corporation who shall violate § 130.39(D), shall for the first offense be subject to a fine of \$200, for the second offense, be subject to a fine of \$350, and for the third and any subsequent offense, be subject to a fine of \$500, provided, however, that in the event that there are no offenses in three successive years from the date of the last offense, then the next offense shall be treated as the first offense. (Ord. passed 6-20-95)

*Town of Westerly, RI  
Thursday, November 12, 2015*

## Chapter 171. Noise

### § 171-1. Policy.

The Town Council finds and declares that:

- A. Excessive noise is a serious hazard to the public health and welfare and quality of life in the Town.
- B. Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.

### § 171-2. Purpose; title.

- A. The purpose of this chapter is to establish standards for the control of noise pollution in the Town by setting maximum permissible sound levels for various activities, to protect the public health, safety and general welfare.
- B. This chapter may be cited as the "Noise Control Ordinance of the Town of Westerly."

### § 171-3. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall have the meanings shown. Definitions of technical terms used shall be obtained from publications of acoustical terminology used by the American National Standards Institute (ANSI) or its successor body.

#### **A-SCALE (dBA)**

The sound level in decibels measured using the A-weighted network as specified in ANSI S1.4-1971 for sound level meters. The level is designated "dB(A)" or "dBA."

#### **CONSTRUCTION**

Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipping of buildings, roadways, infrastructure, or utilities, including drilling, blasting, mining, land clearing, grading, excavating and filling.

#### **DECIBEL (dB)**

A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

#### **DEMOLITION**

Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, impervious surfaces, or similar property.

**EMERGENCY WORK**

Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

**EXTERIOR GENERATOR**

Gas-, propane- or diesel-powered engine designed to generate electricity outside the confines of a building.

**LOT**

Any area, a tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting platted lots under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

**MOTORCYCLE**

Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles and motor scooters.

**MOTOR VEHICLE**

Any motor-operated vehicle licensed for use on the public highways.

**NOISE DISTURBANCE**

Any sound which:

- A. Exceeds the dBA level for such sound set out in this chapter.
- B. Injures or endangers the safety or health of humans.
- C. Annoys, disturbs or endangers the comfort, repose, peace or safety of a reasonable person of normal sensitivities.
- D. Endangers or injures personal or real property.

**NOISE-SENSITIVE AREA**

Any area used for the operation of schools, churches, hospitals and nursing homes or any area designated by the Town Council as a noise-sensitive area and posted with noise-sensitive signs.

**OFF-ROAD RECREATIONAL VEHICLE**

Any motor vehicle, including road vehicles but excepting watercraft, used off public roads for recreational purposes.

**PERSON**

Any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the Town.

**PLAINLY AUDIBLE (SOUND)**

Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

**PORTABLE COOLING/HEATING COMPRESSOR**

The gas, propane or diesel compressor attached to a truck, trailer or temporary storage unit whose purpose is to heat or cool the space to which it is attached.

**POWERED MODEL VEHICLE**

Any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

**PUBLIC SPACE**

Any real property, including any structure thereon, which is owned or controlled by a governmental entity.

**PURE TONE**

Any sound which can be distinctly heard as a single pitch or set of single pitches.

**REAL PROPERTY BOUNDARY**

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

**RECEIVING LAND USE**

The use or occupancy of the property which receives the transmission of sound as defined in this section.

**RESIDENTIAL**

Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

**SOUND**

An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

**SOUND LEVEL**

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**SOUND LEVEL METER**

An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks used to measure sound pressure levels, which complies with American National Standards Institute Standard 1.4-1971.

**ZONING DISTRICTS**

Those districts established by and defined in Chapter 260, Zoning, of the Code of the Town of Westerly.

## § 171-4. Noise disturbances prohibited.

No person shall make, continue or cause to be made or continued, except as permitted, any noise disturbance as defined in this chapter or any noise in excess of the sound level limit for such noise established in this chapter.

## § 171-5. Permitted activities and hours.

- A. Discharge of weapons and fireworks displays. The discharge of weapons or fireworks displays licensed by the Town are permitted between the hours of 7:00 a.m. and 11:00 p.m.
- B. Loading and unloading. Any person shall be permitted to load, unload, open, close or handle crates, containers, garbage cans and dumpsters, building materials or similar objects outdoors between the hours of 6:30 a.m. and 9:00 p.m.
- C. Construction and manufacturing.
  - (1) Drilling, blasting, mining, manufacturing or demolition work. The operation of any tools or equipment in drilling, blasting, mining, manufacturing or demolition work or in preventive maintenance work for public service utilities is permitted between the hours of 7:00 a.m. and 5:00 p.m., except on Sundays or legal holidays. The terms of this section shall not apply to emergency work or repair work performed by or for governmental entities or public service utilities for public safety and welfare.
  - (2) Building construction activities. The operation of building construction, alteration or repair activities, authorized by a valid Town building permit, is permitted between the hours of 7:00 a.m. and 9:00 p.m., provided that on Sundays and legal holidays operation is permitted between the hours of 10:00 a.m. and 6:00 p.m.
- D. Domestic power tools. The use of small, domestic power tools or equipment, such as a saw, drill, sander, grinder or similar device, used outdoors in residential areas is allowed but subject to the noise levels set out in § 171-7.
- E. Lawn care and grounds maintenance equipment. The use of lawn care and grounds maintenance equipment, such as a lawnmower, leaf blower, lawn or garden tool, or similar device, is allowed in normal daytime usage if used and maintained in accordance with the manufacturer's specifications.
- F. Operation of snow-removal equipment. The operation of snow-removal equipment is allowed at any time, provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds being emitted therefrom.
- G. Town-permitted activities:
  - (1) Parades or processions for which a parade permit has been issued, provided the conditions of the permit are complied with.
  - (2) Any athletic event or recreational activity which is conducted and sponsored or funded in part by any elementary or secondary school or the Town of Westerly, on property owned and controlled by the Town of Westerly.
  - (3) Band concerts or music provided, sponsored or funded, in whole or in part, by the Town of Westerly or by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, or on property owned and controlled by the Town of Westerly or in Wilcox Park for which a valid permit has been obtained.
- H. Church or clock carillons, bells or chimes. The emission of sound from church or clock carillons, bells or chimes is permitted at any time.
- I. Emergency signaling devices. The testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed

60 seconds. The emission of sound for the purpose of alerting persons to the existence of an emergency is permitted at any time.

- J. Exterior generators and portable cooling/heating compressors. The operation of an exterior generator or portable cooling/heating compressor is permitted between the hours of 7:00 a.m. and 9:00 p.m., provided that on Sundays and legal holidays operations shall be permitted only between the hours of 10:00 a.m. and 6:00 p.m.
- (1) The operation of an external generator or portable cooling/heating compressor is permitted at any time during a power outage or a power reduction or for other commercial backup purposes or for testing or routine maintenance of the generator or compressor or during an emergency.
  - (2) The operation of an external generator or portable cooling/heating compressor is permitted at any time for use on or in conjunction with an active construction site, provided all other provisions of the Noise Ordinance are met with respect to hours of construction, and provided further that continuous operation of a generator or compressor at a construction site is permitted where said operation is integral to the nature of the construction project itself and industrial activities otherwise permitted in an industrial zone.
- K. Aircraft. The movements of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations are permitted.

## § 171-6. Specific activities prohibited.

The following acts and the causing thereof are declared to be in violation of this chapter:

- A. Radios, television sets, musical instruments and similar devices. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device, or any combination of the same, which produces, reproduces or simulates amplified sound:
- (1) In such a manner as to create a noise disturbance across a real property boundary or within a noise-sensitive area.
  - (2) In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or space, or in a boat on public waters.
  - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device when operated by any person on either a common carrier, public beach, park, playground or other public recreational area.
- B. Animals and birds. No person shall own, possess or harbor any animal or animals, bird or birds which frequently or for continued duration howls, barks, meows, squeaks, or makes other sounds which create a noise disturbance across a real property boundary or within a noise-sensitive area.
- C. Vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary or outdoors within a noise-sensitive area.
- D. Motorboats, jet skis and similar devices. No person shall operate or permit the operation of any motorboat, jet ski or other similar device in any lake, river, stream or other waterway in such a manner so as to cause a noise disturbance and/or as to exceed a sound level of 50 dBA at 200 feet or the nearest shoreline, whichever is less.
- E.

Noise-sensitive zones. No person, alone or in concert with others, shall create or cause the creation of any sound within any noise-sensitive area so as to disrupt or interfere with the functions and/or activities normally conducted within the area or to disturb or annoy any person or persons within such area.

F. Motor vehicles.

- (1) Motor vehicle maximum sound levels. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner as to create a noise disturbance.
- (2) Adequate mufflers or sound-dissipative devices.
  - (a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or sound-dissipative device in good working order and in constant operation.
  - (b) No person shall remove or render inoperative or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle.
- (3) Motor vehicle horns and signaling devices. The following acts and the causing thereof are declared to be in violation of this chapter:
  - (a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as provided in the Vehicle Code.
  - (b) The sounding of any horn or other auditory signaling device so as to create or cause a noise disturbance.

§ 171-7. Sound levels by receiving land use.

- A. Maximum permissible sound levels by receiving land use. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, no person shall operate or cause to be operated, make, continue or cause to be made or continued any noise or source of sound as to create 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.

**Table 1**

**Sound Levels By Receiving Land Use**

<b>Zoning Category of Receiving Land Use</b>	<b>Sound Level Limit (dBA)</b>	
	<b>from 8:00 a.m. to 10:00 p.m.</b>	<b>from 10:00 p.m. to 8:00 a.m.</b>
Residential (LDR-43, LDR-40, MDR-30, MDR-20, HDR-15, HDR-10, HDR-6)	65	60
Business (DC-1, DC-2, GC, HC, NB, MC, SC-WH, SC-G, CR)	75	75
Professional (P-15)	75	75
Manufacturing (LI, GI, ORAT)	70	60
Agriculture (RR-60, OSR)	70	60
Noise-sensitive area	65	55
Motor vehicle w/wt. 10,000 or more	86 dBA 35 mph or less/90 dBA over 35 mph	

**Table 1**  
**Sound Levels By Receiving Land Use**

<b>Zoning Category of Receiving Land Use</b>	<b>Sound Level Limit (dBA)</b>	<b>Sound Level Limit (dBA)</b>
	<b>from 8:00 a.m. to 10:00 p.m.</b>	<b>from 10:00 p.m. to 8:00 a.m.</b>
Motorcycle	82 dBA 35 mph or less/86 dBA over 35 mph	
Any motor vehicle towed	76 dBA 35 mph or less/82 dBA over 35 mph	

- B. Correction for character of sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Subsection A shall be reduced by five dBA.
- C. Measurement of sound.
- (1) Decibel measurements shall be made with a sound level meter, which shall be an instrument in good operating condition meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain an A-weighted scale and both fast and slow meter response capability.
  - (2) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in ANSI Standard 1.4-1971 for Type II instruments.
  - (3) When the location or distance prescribed in this chapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this chapter.
  - (4) Procedures and tests required by this chapter and not specified herein shall be placed on file with the Town Clerk.

## § 171-8. Sound variances.

- A. Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.
- B. Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.
- C. All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.
- D. In determining whether to grant or deny an application or revoke a variance previously granted, Council shall balance hardship to the applicant, the community and other persons if the sound variance is not allowed against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

- E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.
- F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

### **§ 171-9. Violations and penalties.**

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be punished for each violation as provided in Chapter 1, Article II, General Penalty. The continuation of a violation of any provision of this chapter shall constitute, for each day the violation is continued, a separate and distinct violation hereunder.

*Town of East Greenwich, RI  
Thursday, November 12, 2015*

## Chapter 152. NOISE

[HISTORY: Adopted by the Town Council of the Town of East Greenwich 9-28-1993 by Ord. No. 599 (Secs. 13-1 to 13-12 of the 1993 Code). Amendments noted where applicable.]

### Article I. General Provisions

#### § 152-1. Statement of public policy.

The Town Council hereby finds and declares that:

- A. Excessive noise is a serious hazard to public health and welfare and the quality of life in the Town of East Greenwich.
- B. A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
- C. Certain of the noise-producing equipment in this community is essential to the quality of life herein and should be allowed to continue at reasonable levels with moderate regulation.
- D. Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.
- E. It is the declared policy of the Town of East Greenwich to promote an environment free from excessive noise (otherwise properly called noise pollution), which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives of the residents of this Town, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community.

#### § 152-2. Definitions.

For the purposes of this chapter, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

##### **AMBIENT NOISE**

The all-encompassing noise associated with a given environment, exclusive of a particular noise being tested, being usually a composite of sounds from many sources, near and far, exclusive of intruding noises from isolated identifiable sources.

##### **DECIBEL (db)**

A unit of measure often used in describing the amplitude of sound which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio.

**EMERGENCY WORK**

Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility service.

**MOTOR VEHICLES**

Includes, but is not limited to, minibikes and go-carts.

**SOUND-AMPLIFYING EQUIPMENT**

Any machine or device for the amplification of the human voice, music or any other sound. Sound-amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment as used in this chapter shall not include warning devices on any vehicle used only for traffic safety purposes.

**SOUND LEVEL (NOISE LEVEL), IN DECIBELS (db)**

The sound measured with the "A" weighting and slow response by a sound level meter.

**SOUND LEVEL METER**

An instrument, including a microphone, amplifier, RMS detector, integrator or time averager, output or display meter, and weighting networks, used to measure sound pressure levels, which complies with ANSI Standard 1.4-1971, as the same may be revised.

**SOUND TRUCK**

Any motor vehicle or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound-amplifying equipment.

**TOWN**

The Town of East Greenwich, Rhode Island.

**§ 152-3. Sound level measurement criteria.**

Any sound level measurement made pursuant to the provisions of this chapter shall be measured with a sound level meter using the "A" weighting.

**§ 152-4. Ambient base noise level.**

A. The noise level listed in this section shall be the ambient base noise levels used for the purposes of this chapter:

Zoning District	Time	Sound Level (dba)
R-6, R-10, R-20, R-30	10:00 p.m. to 7:00 a.m.	55
R-6, R-10, R-20, R-30	7:00 a.m. to 10:00 p.m.	60
F, F-1, F-2	10:00 p.m. to 7:00 a.m.	55
F, F-1, F-2	7:00 a.m. to 10:00 p.m.	60
CD, CL, CH	10:00 p.m. to 7:00 a.m.	65
CD, CL, CH	7:00 a.m. to 10:00 p.m.	70
W	10:00 p.m. to 7:00 a.m.	65
W	7:00 a.m. to 10:00 p.m.	70
M	Any time	75

*Residential (# is in thousands of feet)* [bracketed around R-6, R-10, R-20, R-30]

*Farming* [bracketed around F, F-1, F-2]

*Commercial* [bracketed around CD, CL, CH]

*Waterfront* [bracketed around W]

*Industry* [bracketed around M]

B.

Irrespective of zoning district, the stated sound levels and times shall apply to property located east of the railroad tracks, north of Rocky Hollow Road, and bounded by the East Greenwich Cove and the East Greenwich Town line. Irrespective of § 152-5, sound in excess of these stated limits shall constitute a violation of this section. Irrespective of § 152-12B, sound amplifying equipment may only be operated out of doors during stated hours.

(1) From Friday of Memorial Day Weekend to the end of Labor Day Weekend.

Monday	6:00 p.m. - 10.00 p.m.	55
Tuesday	6:00 p.m. - 10.00 p.m.	55
Wednesday	8:00 p.m. - 12.00 p.m.	65
Thursday	8:00 p.m. - 12.00 a.m.	65
Friday	5:30 p.m. - 12.30 a.m.	65
Saturday	2:00 p.m. - 12.30 a.m.	65
Sunday	2:00 p.m. - 10.00 p.m.	65
Monday holidays	2:00 p.m. - 10:00 p.m.	65

\*Except on holiday weekends: 12:00 a.m.

(2) Then, from the Labor Day Weekend to the last weekend of September:

Thursday	7:00 p.m. - 12:00 a.m.	65
Friday	7:00 p.m. - 12:00 a.m.	65
Saturday	7:00 p.m. - 12:00 a.m.	65
Sunday	7:00 p.m. - 10:00 a.m.	65

## § 152-5. Violations and penalties.

- A. No person or entity shall make, continue or cause to be made or continued, unless as herein permitted, any sound exceeding by more than five decibels the ambient base noise level as defined in § 152-4 hereof, at the property line of any adjoining property or, if a condominium or apartment house, at the common wall of any adjoining dwelling unit.
- B. Any person sound in violation of any provision of this chapter shall upon conviction be punished by a fine of not more than \$200 for a first offense, \$300 for a second offense, \$450 for a third offense and \$500 for a fourth offense. Any entertainment license holder convicted of a fourth offense in one calendar year shall suffer a three-month suspension of said entertainment license.
- C. Any violation of this chapter is declared to be a public nuisance and shall also be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

## § 152-6. Exceptions.

The provisions of this chapter shall not apply to:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency;
- B. The emission of sound in the performance of emergency work;
- C. Noncommercial public speaking and public assembly activities conducted on any private property, public space or public right-of-way
- D. The emission of sound in the performance of governmental military operations;

- E. The emission of sound in the discharge of weapons or in fireworks displays licensed by the Town;
- F. The emission of sound in the operation of snow removal equipment; and
- G. The emission of sound relative to permitted construction and demolition activities, provided that such activities do not occur between 9:00 p.m. and 7:00 a.m.

## Article II. Amplified Sound

### § 152-7. Findings and purpose.

The Town Council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety and welfare of its citizenry. While recognizing inherent constitutional rights of freedom of speech and assembly, the Council nevertheless finds that it is obligated to reasonably regulate the use of sound-amplifying equipment in order to protect the correlative constitutional rights of the citizens of this Town to privacy and freedom from the public nuisance of loud noise.

### § 152-8. Permit required.

It shall be unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use, or operate within the Town sound-amplifying equipment out of doors in a fixed or movable position or mounted upon any sound truck for any purpose without first obtaining a permit from the Chief of Police or his designee.

### § 152-9. Filing and approval or disapproval of permit.

- A. Filing of permit statement. Every person seeking to use sound-amplifying equipment shall file a permit statement with the Police Department. A permit for use by an entertainment license holder shall be valid for a period of six months. All other permits issued hereunder shall be valid for a period of one week; application shall be made at least 24 hours prior to issuance. The statement shall contain the following information:
  - (1) The name, address and telephone number of the person to whom the permit is to be issued; and
  - (2) The license and motor number is a sound truck is to be used; and
  - (3) A general description of the sound-amplifying equipment which is to be used; and
  - (4) Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes.
- B. Approval of permit statements. The Police Chief shall return to the applicant an approved certified copy of the permit statement unless he finds that:
  - (1) The conditions of the motor vehicle movement are such that in the opinion of the Chief of Police, the use of the equipment would constitute a detriment to traffic safety; or
  - (2) The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or
  - (3)

The permit statement would violate one or more of the provisions set forth in § 152-12 of this chapter or any other pertinent provision hereof.

- C. Disapproval of permit. In the event the permit statement is disapproved, the Chief of Police shall endorse thereupon his reasons for disapproval and return it forthwith to the applicant.

### § 152-10. Permit fees.

Prior to the issuance of the permit statement, a fee in the amount of \$30 for a six-month permit or \$10 for a one-week permit shall be paid to the Town if the loud speaker or sound-amplifying equipment is to be used for commercial purposes. No fee shall be required for the operation of sound-amplifying equipment for noncommercial purposes.

### § 152-11. Appeals.

Any person aggrieved by disapproval of a permit statement may appeal to the Town Council.

### § 152-12. Prohibited acts.

The commercial and noncommercial use of sound-amplifying equipment shall be subject to the following regulations:

- A. The only sounds permitted shall be either music or human speech, or both.
- B. The operation of sound amplifying equipment by holders of entertainment licenses shall only occur between the hours of 10:00 a.m. and the legal closing hour of the establishment.
- C. The operation of all other sound-amplifying equipment shall only occur between the hours of 10:00 a.m. and 10:00 p.m. each day except Sundays and legal holidays. No operation of said other sound-amplifying equipment for commercial purposes shall be permitted on Sundays or legal holidays. The operation of sound-amplifying equipment for noncommercial purposes on Sundays and legal holidays shall only occur between the hours of 10:00 a.m. and 7:00 p.m.
- D. The sound level emanating from nonstationary sound-amplifying equipment shall not exceed 15 decibels above the ambient base noise level as defined in § 152-4 hereof.
- E. Notwithstanding any other provision of this chapter to the contrary, sound-amplifying equipment shall not be operated within 200 feet of churches, schools, hospitals or Town buildings.

## Article III. Motor Vehicles and Equipment

[Added 11-9-2009 by Ord. No. 804]

### § 152-13. Violations and penalties.

Every person violating any of the provisions of any ordinance of the Town relating to traffic shall be liable to pay a fine specified by the individual ordinance, or a fine of \$20 for each such offense if no fine is specified, except violators of the consecutive parking violation provisions as set forth in §§ 248-35 and 248-46.

## § 152-14. Excessive vehicular noise.

- A. Unnecessary, excessive, or offensive vehicular noise. Any sound or noise emanating from any vehicle(s) in motion, parked, or standing on any streets, land parcels, or properties, public or private, within the Town of East Greenwich, plainly audible to a person of reasonably sensitive hearing at a distance of 200 feet from its source, shall be deemed a prima facie violation of this article.
- B. For the purposes of this section, "plainly audible" means any sound which clearly can be heard by unimpaired auditory senses based on a direct line of sight of 200 feet or more from the source of the sound and which crosses a property boundary line or boundary between two dwelling units; however, words or phrases need not be discernible, and said sound shall include base reverberation.
- C. Any operator of any vehicle violating the provisions of this chapter shall be fined according to the following:
  - (1) First offense: \$100.
  - (2) Second offense: \$250.
  - (3) Third offense: \$500.
- D. Any and all emergency vehicles engaged in official business requiring audible warning or public address shall be exempt from any provision of this article.

ARTICLE IV. - NOISE  
FOOTNOTE(S):

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**Editor's note**— An ordinance of March 26, 2007, in effect repealed the former article IV, §§ 38-101—38-106, 38-121—38-123 and 38-136—38-145, and enacted a new article IV as set out herein. The former article IV pertained to similar subject matter and derived from the Code of 1967, §§ 18-1—18-17 and 18-19.

**Cross reference**— Muffling devices on boats, § 14-225.

DIVISION 1. - GENERALLY

Sec. 38-101. - Policy statement.

The council hereby finds and declares that:

- (1) Excessive noise is a serious hazard to the public health and welfare and the quality of life.
- (2) A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
- (3) Certain of the noise-producing equipment in this community is essential to the quality of life in the town and should be allowed to continue at responsible levels with moderate regulation.
- (4) Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.
- (5) It is declared the policy of the town to promote an environment free from excessive noise, otherwise properly called noise pollution, which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amendable to such controls and yet is essential to the quality of life in the community.

(Ord. of 3-26-07(2))

Sec. 38-102. - Title, purpose and scope of article.

- (a) *Title*. This article may be cited as the "Noise Ordinance" of the Town of Tiverton.
- (b) *Purpose*. To establish standards for the control of noise pollution in the town by setting maximum permissible sound levels for various activities.
- (c) *Scope*. This article shall apply to the control of all noise originating within the limits of the town or originating from properties lying outside the limits of the town that are owned or controlled by the town. State or federal noise regulations may supersede this article.
- (d) *Partial invalidity*. If any provision of any section of this chapter be held invalid, the remainder of the sections and the applications of the provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

(Ord. of 3-26-07(2))

Sec. 38-103. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms used in this article, which are not defined in this section, shall be obtained from publications or acoustical terminology issued by A.N.S.I. or its successor body:

*A-scale (dBA)* means the sound level in decibels measured using the A-weighted network, as specified in A.N.S.I. Standard 1.4-1971 for sound level meters. The level is designated dB(A) or dBA.

*Ambient sound level* means the noise associated with a given environment, exclusive of a particular noise being tested, being usually a composite of sounds from many sources near and far, exclusive of intruding noises from isolated identifiable sources.

*A.N.S.I.* means the American National Standard Institute or its successor body.

*Construction* means any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

*Decibel (dB)* means a unit of measure used in describing the amplitude of sound.

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Dwelling unit* means a building or portion of a building regularly used for residential occupancy.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

*Impulsive sound* means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

*Lot* means any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting platted lots under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

*Motor vehicle* means any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

*Motorboat*. See *Watercraft*.

*Motorcycle* means any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles, motor scooters, mopeds and the like.

*Narrow band sound* means sound characterized by normal listeners as having predominant pitch or series of pitches; sound described by such listeners as "whine," "hiss," "toot" or "wall"; or a sound whose frequencies occupy an octave band or less.

*Noise disturbance* means any sound which exceeds the dBA level for such sound set out in this article; the making, creation or permitting of any unreasonably loud, disturbing or unnecessary noise; the making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual; or noise which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual.

*Offroad recreational vehicle* means any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

*Person* means any individual, including the owner of premises or tenant, association, partnership or corporation, including any officer, department, bureau, agency or

instrumentality of the United States, a state or any political subdivision of a state, including the town.

*Physical characteristics of sound* means the steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

*Plainly audible* means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible rhythms.

*Powered model vehicle* means any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designated to carry persons including, but not limited to, any model airplane, boat, car or rocket.

*Public right-of-way* means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

*Public space* means any real property, including any structure thereon, which is owned or controlled by a governmental entity.

*Pure tone* means any sound which can be distinctly heard as a single pitch or set of single pitches.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

*Receiving land use* means the use or occupancy of the property which receives the transmission of sound.

*Residential property* means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction characteristic of such sound, including duration, intensity and frequency.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in A.N.S.I. specifications for sound level meters (A.N.S.I. Standard 1.4-1971, or the latest approved revision of such standard). If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks, used to measure sound pressure levels, which complies with A.N.S.I. Standard 1.4-1971.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

*Sound pressure level* means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6} \text{N/M}^2$ ). The sound pressure level is denoted LP or SLP and is expressed in decibels.

*Sound variance* means a variance authorized by the town council to allow a waiver from the noise ordinance for functions and events that are open to the public. Variances are awarded after the proper application is filed and has been reviewed and approved by both the town council in consultation with the chief of police.

*Steady sound* means a sound whose level remains essentially constant ( $\pm 2\text{dBa}$ ) during the period of the sound level meter.

*Town* means the Town of Tiverton, Rhode Island, or the area within the territorial limits of the town, and such territory outside of the town over which the town has jurisdiction or control by virtue of ownership or any constitutional or Charter provision or any law.

*Used and occupied* means and includes the words "intended, designed or arranged to be" (used or occupied).

*Watercraft* means any contrivance used, or capable of being used, as a means of transportation or recreation on water.

*Zoning districts* means those districts established in the zoning ordinance and indicated on the official zoning map, or in the zoning ordinance.

(Ord. of 3-26-07(2))

**Cross reference**— Definitions generally, § 1-2.

Sec. 38-104. - Measurement of sound.

- (a) If the measurements of sound are made with a sound level meter, it shall in good operating condition and meeting the requirements as specified by A.N.S.I. standards.
- (b) When the location or distance prescribed in this article for measurement of sound is impractical causing inaccurate results, measurements may be taken at other locations using appropriate correction factors. Such procedures shall be set forth in writing as part of any report, including a police report, of a sound measurement.

**TABLE 1: Real-Life Examples:**

*Approximate Decibels (dB)*

Decibels	Faint	Moderate	Very Loud	Extremely Loud	Painful
140					Firecracker
130				Jackhammer/Jet Plane	
120				Thunder/Rock Concert	
110			Chain Saw		
105			Screaming Child		
90			Power Lawn Mower		
* 85			Average Traffic		

80			Alarm Clock @ 2'		
70		Vacuum Cleaner			
65		Washing Machine			
60		Sewing Machine			
50		Rainfall (moderate)			
40	Refrigerator Hum				
30	Quiet Whisper				
20	Ticking Watch				

\* Note: 85 dB and above is considered dangerous and earplugs are recommended.

(Ord. of 3-26-07(2))

Sec. 38-105. - Exceptions to this article.

The provisions of this article shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency.
- (2) The emission of sound in the performance of emergency work.
- (3) Noncommercial public speaking, public education and public assembly activities, except those activities controlled by section 38-142
- (4) The emission of sound in the discharge of weapons between 7:00 a.m. and 9:00 p.m. (related police activities may take place outside of these time constraints at the discretion of the chief of police.)
- (5) The emission of sound in the discharge of fireworks displays licensed by the town, from 7:00 a.m. to 11:00 p.m.
- (6) The emission of sound in the operation of snow removal equipment.
- (7) The emission of sound relative to construction and demolition activities for which a building or demolition permit has been duly issued, provided that such activities do not occur between 9:00 p.m. and 7:00 a.m.
- (8) The emission of sound relative to the operation of yard or lawn maintenance equipment or machinery, provided such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. the following day.

(Ord. of 3-26-07(2))

Sec. 38-106. - Town Agencies.

All departments and agencies of the town shall carry out their programs in accordance with the policies set forth in this article.

(Ord. of 3-26-07(2))

Secs. 38-107—38-120. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 38-121. - Implementation, administration and enforcement of this article.

- (a) The police department shall implement, administer and enforce this article.
- (b) The police department, assisted by any duly designated town agency, shall have the power to:
  - (1) Conduct research, monitoring and other studies related to sound;
  - (2) Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this article and the procedures for reporting violations;
- (c) *Responsibility for violation.* Whenever a violation of this article occurs and two or more persons are present in or on the lot from which the sound emanates, and it is impossible to determine which of such persons is the violator, the owner of the lot, if present, shall be presumed responsible for the violation. In the absence of such owner, the tenant of such lot, or any person present with the direct consent of the owner, shall be held responsible for the violation.
- (d) *Continuing violations; town solicitor.* In the case of continuing violations, the town solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot.

(Ord. of 3-26-07(2))

Sec. 38-122. - Sound variances.

- (a) The town council shall have the authority, consistent with this section, to grant sound variances from this article after a public hearing.
- (b) Any person seeking a sound variance shall file an application with the town clerk. The application, available at the town clerk's office, shall demonstrate that complying with the regulations would cause an unreasonable hardship on the applicant, on the community or on other persons.
- (c) All applications shall include a filing fee sufficient to cover notice and advertising, as may be set from time to time by the town council notice by first class mail shall be given to all property owners within 200 feet of the real property boundary of the lot on which the noise source is located. In addition, advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the town.
- (d) In determining whether to grant or deny an application, or revoke a variance previously granted, the council shall balance the hardship element against the adverse impact on the persons, property affected and any other adverse impact, if the sound variance is not allowed. Applicant shall be required to submit any information that the council may reasonably require in granting or denying an application or in revoking a sound variance previously granted. The council may impose conditions on the granting of a sound variance, in order to mitigate the impact of such variance on neighboring properties. The council shall cause to be recorded in the land evidence records a copy of the decision and the reasons for granting, denying or revoking the sound variance.
- (e) Sound variances shall be granted in writing to the applicant containing all necessary conditions. The variance shall not become effective until all conditions are agreed to by the applicant. Non-compliance with any condition of the variance shall terminate it and subject the person to those provisions of this article.

(Ord. of 3-26-07(2))

Sec. 38-123. - Penalty for violation of article.

- (a) The penalty for violation of any section of this article shall be in accordance with section 1-7 of the Tiverton Code (general penalties) and up to the maximum allowed

by state law for municipalities to impose on ordinance violations as follows:

- (1) The first offense in a calendar year shall be the issuance of a written warning to cease and desist with the violation.
- (2) Subsequent offenses in the same calendar year shall be punished by the issuance of an order to cease and desist with the violation and a fine of:
  - a. Second offense: \$100.00
  - b. Third offense: \$250.00
  - c. Fourth and subsequent offenses: \$500.00
- (b) Each noise disturbance in a calendar year after the issuance of a written warning or order shall be considered a separate offense, and each day it continues shall constitute a separate offense.
- (c) *Separate provisions and related penalties:*
  - (1) Holders of alcoholic beverage licenses shall be subject to the following provisions:
    - a. In addition to any penalty set forth in subsection (a) of this section, any holder of a class A, B, B Ltd., C or D liquor license who shall be cited for violation of the provisions of this article twice within a period of six months shall, upon complaint by the police department to the town council sitting as a board of license commissioners, be summoned to appear before the board to show cause why disciplinary action should not be taken against such license holder for violation of the law.
    - b. The license holder shall be served with a notice of the date, time and place of any such hearing.
    - c. The license holder has the right to be present at any such hearing and to be represented by counsel. If he so chooses, he may cross examine witnesses and to present sworn testimony on his own behalf.
    - d. After the hearing, the board may, if it finds that a violation has occurred, take disciplinary action against the license holder including, but not limited to, suspension and/or revocation of the license.
  - (2) Owners or keepers of dogs and other animals creating a noise disturbance shall be subject to the following:
 Owners or keepers of dogs and other animals that create a nuisance by habitual and/or continual emitting of sounds natural to the species (such as barking dogs) are in violation of section 10-34 of the Tiverton Code (nuisances). Should the animal control officer or police officer, upon personal observation of an animal, find that a noise disturbance is habitually created, a citation shall be issued, to be adjudicated by the Municipal Court.
    - a. First violation: \$50.00.
    - b. Second violation: \$75.00.
    - c. Third and subsequent violations: \$100.00.
 Each day of the noise disturbance, after receipt of first violation, shall constitute a separate violation of this section.
  - (3) Subscribers and/or property owners of alarm systems creating a noise disturbance shall be subject to the following: The activation of false or nuisance alarms are in violation of Section 34 of the Tiverton Code (nuisances).
    - a. No installed audible alarm system shall sound an alarm for longer than 15 minutes.
    - b. After the second false alarm in any calendar year, the police chief, or in the case of fire alarms, the fire chief shall send a written order to the subscriber instructing him to:
      1. Have the alarm system inspected by an alarm company;
      2. Review alarm procedures with all employees (if the premises is a business) or members of the household (if the premises is a residence).
      3. Within 14 days after this order is issued, the subscriber shall forward to the police chief proof that the alarm system has been inspected and is in good working order.
 This notice shall include a written notice to the subscriber notifying him that a third false alarm within the calendar year will be a nuisance alarm violation and will subject the subscriber to the fines set forth in the schedule of such fines and fees noted below.
    - c. For the third and subsequent false alarm in a calendar year the following fines shall be imposed for nuisance alarm violations:
      1. Third false alarm in a calendar year: \$50.00.
      2. Fourth false alarm in a calendar year: \$75.00.
      3. Fifth and subsequent offenses: \$100.00.
    - d. After the third false alarm in a calendar year, the chief of police shall have the option of issuing an order disconnecting the audible portion of the alarm system.

(Ord. of 3-26-07(2))

Secs. 38-124—38-133. - Reserved.

DIVISION 3. - REGULATION OF SOUND

Sec. 38-134. - Prohibited noise disturbances.

No person shall make, continue or cause to be made or continued, except as permitted in this article, any noise or sound which constitutes a noise disturbance. In the absence of specific maximum noise levels, a noise level must exceed the ambient noise level by five dBA or more, when measured at the nearest property line or, in the case of a multi-family residential building, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, in order to constitute a noise disturbance.

(Ord. of 3-26-07(2))

Sec. 38-135. - Measurement of sound.

- (a) *General provision; tests for noise disturbances.* In addition to the definition established in section 10-37, the factors which shall be considered in determining whether a noise disturbance exists shall include, but shall not be limited to, the following:
- (1) The volume of the noise;
  - (2) The intensity of the noise;
  - (3) Whether the nature of the noise is usual or unusual;
  - (4) Whether the origin of the noise is natural or unnatural;
  - (5) The volume and intensity of the background noise, if any;
  - (6) The proximity of the noise to residential sleeping facilities;
  - (7) The nature and zoning of the area within which the noise emanates;
  - (8) The density of inhabitation of the area within which the noise emanates;
  - (9) The time of the day or night the noise occurs;
  - (10) The duration of the noise;
  - (11) Whether the noise is recurrent, intermittent or constant;
  - (12) Whether the noise is produced by a commercial or noncommercial activity; and

- (13) Whether the noise is constant or in short duration or spikes.
- (b) *Classification of use districts.* It is unlawful to project a sound or noise, from one property into another, within the boundary of a use district which exceeds either the limiting noise spectra set forth in table 1 below, or exceeds the ambient noise level by more than three decibels.
  - (1) Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of each district into which the noise is projected.
  - (2) *Measurement of noise:*
    - a. The measurement of sound or noise shall be made with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
    - b. The slow meter response of the noise level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise spectra set forth in table I. Spiked measurements shall be taken for short duration noise.
    - c. The measurement shall be made at the property line of the property on which such noise is generated, or perceived, as appropriate five feet above ground.
    - d. In the case of an elevated or directional sound or noise source, compliance with the noise limits is to be maintained at any elevation at the boundary.

(Ord. of 3-26-07(2))

Sec. 38-136. - Maximum permissible sound levels by receiving land use.

- (a) With the exception of sound levels elsewhere specifically authorized or allowed in this article or exempted by this article or by variance, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use.

TABLE II:

Sound Levels by Receiving Land Use

Zoning District	Time	Sound Limit dB(A)
Residential and open space	7:00 a.m. to 10:00 p.m.	60
Residential and open space	10:00 p.m. to 7:00 a.m.	55
General and highway commercial	At all times	70
Light and general industrial	At all times	70
Any zone where the noise is generated from a public water way	At all times	70

- (b) For any source of sound which emits a pure tone, the maximum sound level limits set forth in table II shall be reduced by five dB.
- (c) Exceptions to table II are activities covered by sections 38-138 (emergency signaling devices), 38-141 (regulations of sound equipment and sound amplifying equipment), and 38-144 (stationary non-emergency signaling devices).

(Ord. of 3-26-07(2))

Sec. 38-137. - Emergency signaling devices.

- (a) No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b) of this section.
- (b) Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed or at such other time as may be permitted by the police department or fire department, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

(Ord. of 3-26-07(2))

Secs. 38-138, 38-139. - Reserved.

Sec. 38-140. - Specifically prohibited activities.

- (a) *Sales by hawking and peddlers.* No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary.
- (b) *Vehicle or motorboat repairs or testing.* No person shall create a noise disturbance by repairing, rebuilding, modifying or testing any motor vehicle motorcycle or motorized watercraft.

- (c) *Powered model vehicles.* No person shall create a noise disturbance by operating or permitting the operation of powered model vehicle in a public or private space out-of-doors between the hours of 10:00 p.m. and 7:00 a.m. the following day.
  - (d) *Fireworks.* Notwithstanding the provision of section 38-105(7), no person shall create a noise disturbance by the emission of sound in the discharge of fireworks unless such person shall be duly licensed by the appropriate state and local authority.
- (Ord. of 3-26-07(2))

Sec. 38-141. - Musical instruments and similar devices.

No person shall operate, play or permit the operation or playing of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary. Refer to table II for applicable dB levels.

(Ord. of 3-26-07(2))

Sec. 38-142. - Regulation of sound equipment and sound-amplifying equipment.

Except for activities open to the public and for which a permit and a noise variance have been issued by the town, no person shall operate, play or permit the operation or playing of any radio, television, phonograph or other sound-amplifying equipment so as to create a noise disturbance.

(Ord. of 3-26-07(2))

Sec. 38-143. - Motorized vehicles.

- (a) No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more for a consecutive period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.
- (b) No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in table II for the category of motor vehicle, based on the legal speed limited, posted or not, of the road or way on which such vehicles are operated. Such noise shall be measured at a distance of not more than 50 feet from the centerline of travel under test procedures established by subsection (c) of this section. If the distance of the measuring instrument from the centerline of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

TABLE III:  
Vehicle Noise Limitations

Type of Vehicle	35 mph or less	Over 35 mph
(1) Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	88 dB(A)	92 dB(A)
(2) Any motorcycle	82 dB(A)	86 dB(A)
(3) Any other motor vehicles and any combination of motor vehicle towed by such motor vehicle	76 dB(A)	82 dB(A)

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of any laws relating to motor vehicle muffler or noise control.

- (c) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by A.N.S.I. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a prior representation of the noise sources. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources shall be noted and adjustments made so that these and other background noises do not interfere with the primary noise being measured.
- (d) Every motor vehicle and motorcycle shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dB levels set forth in Table III. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle.
- (e) No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler or bypass, and no person shall operate a motor vehicle or motorcycle which has been so modified.
- (f) No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real property boundary.
- (g) Motorized watercraft shall be governed by the sound levels set forth in table II in section 38-137 (maximum permissible sound levels by receiving land use.) Every motorized watercraft shall be equipped with a muffler in good working order and constant operation to prevent noise which exceeds the dB level set forth in table II for public water way.

(Ord. of 3-26-07(2))

Sec. 38-144. - Construction.

- (a) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities, which creates a noise disturbance across a residential real property boundary.
- (b) This section shall not apply to:
  - (1) Emergency work or repair work performed by and for governmental entities or public service utilities; or
  - (2) Work for which a variance has been obtained from the town council.
- (c) The use of domestic power tools or equipment is subject to the noise levels set forth in table II in section 38-137 (maximum permissible sound levels by receiving land use).
- (d) Properly permitted construction and/or demolition activities are allowed between the hours of 7:00 a.m. and 9:00 p.m. each day.

(Ord. of 3-26-07(2))

Sec. 38-145. - Stationary non-emergency signaling devices.

- (a) No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any one hour.
- (b) Devices used in conjunction with places of religious worship shall be exempt from this operation section.  
*(Ord. of 3-26-07(2))*

Secs. 38-146—38-160, - Reserved.

## Sec. 10-31. - Statement of policy.

The council hereby finds and declares that:

- (1) Excessive noise is a serious hazard to the public health, safety and welfare and the quality of life in a close urban society.
- (2) A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
- (3) Certain of the noise producing equipment in this community is essential to the quality of life and should be allowed to continue at reasonable levels with responsible regulation.
- (4) Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.
- (5) It is the declared policy of the town to promote an environment free from excessive noise, otherwise properly called noise pollution, which unnecessarily jeopardizes the public health, safety and welfare and degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community.

(Ord. No. 1996-14, § 1, 8-28-96)

## Sec. 10-32. - Purpose, title and scope of article.

- (a) *Purpose.* The purpose of this article is to establish standards for the control of noise pollution in the town by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.
- (b) *Title.* This article may be cited as the "Noise Ordinance" of the Town of Bristol.
- (c) *Scope.* This article shall apply to the control of all noise originating within the limits of the town provided that:
  - (1) A state or federal agency has not adopted a different standard or rule than that prescribed in this article and has so preempted the regulation of noise from a particular source as to render this article inapplicable thereto; or
  - (2) Such noise has not been granted a variance pursuant to section 10-50.

(Ord. No. 1996-14, § 2, 8-28-96; Ord. No. 1999-16, 7-14-99)

## Sec. 10-33. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms used in this article, which are not defined in this section, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

*A-scale (dBA)* means the sound level in decibels measured using the A-weight or network as specified in ANSI Standard 1.4-1971 for sound level meters. The level is designated dB(A) or dBA.

*Ambient sound level* means the noise associated with a given environment, exclusive of intruding noises from isolated identifiable sources.

*ANSI* means the American National Standards Institute or its successor body.

*Construction* means any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair of equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

*Decibel (dB)* means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Dwelling unit* means a building or portion thereof regularly used for residential occupancy.

*Dynamic braking device* means a device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

*Holiday*, whenever used in this chapter includes: New Year's Day, Memorial Day, Fourth of July, Victory Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day (but only in those years that the governor by public proclamation designates it as a legal holiday), and Christmas, or on any day which any enumerated holiday is officially celebrated.

*Impulsive sound* means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-force impacts and the discharge of firearms.

*Lot* means any tract or parcel of land owned by or under the lawful control of one distinct ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

*Mixed use* means a dwelling unit or school located in commercial or an industrial zone.

*Motor vehicle* means any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

*Motorboat.* See *Watercraft*.

*Motorcycle* means any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles, motor scooters, mopeds and the like.

*Narrow band sound* means a sound characterized by normal listeners as having a predominant pitch or series of pitches; sound described by such listeners as "whine," "hiss," "toot," or "wail"; or a sound whose frequencies occupy an octave band or less.

*Noise control office* means the town department having responsibility for the enforcement of this article.

*Noise disturbance* means any sound which exceeds the dBA level for such sound set out in this article, including sounds from the human voice or voices between the hours of 11:00 p.m. and 7:00 a.m. in a residential zone which exceeds sound or sound level standards set forth in this chapter.

*Nonconforming use* means a use of a structure, building or land which was established as permitted use and which has been lawfully continued pursuant to the zoning code of the town, but which is not a permitted use in the zone in which it is now located.

*Offroad recreational vehicle* means any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

*Person* means any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the town.

*Physical characteristics of sound* means the steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

*Plainly audible* means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible rhythms.

*Port facilities* means any and all public or private facilities used for the repair, loading or unloading of ships within the town, including, but not limited to, shipyards, repair yards and dry docks.

*Powered model vehicle* means self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designed to carry a person, including, but not limited to, any model airplane, boat, car or rocket.

*Public right-of-way* means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

*Public space* means any real property, including any structure thereon, which is owned or controlled by a governmental entity.

*Pure tone* means any sound which can be distinctly heard as a single pitch or set of single pitches.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

*Receiving land use* means the use or occupancy of the property which received the transmission of sound.

*Residential property* means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in ANSI specifications for sound level meters (ANSI Standard 1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or play meter, and weighting networks used to measure sound pressure levels, which complies with ANSI Standard 1.4-1971.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

*Sound pressure level* means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure to the reference pressure of 20 microwtons per square meter ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

*Steady sound* means a sound whose level remains essentially constant ( $\pm 2\text{dB}$ ) during the period of the sound level meter.

*Town* means the Town of Bristol, Rhode Island, or the area within the territorial limits of the town over which the town has the jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.

*Unnecessary, excessive or offensive noise* means any sound or noise conflicting with the criteria, standards, or levels set forth in this article for permissible noises. In the absence of specific maximum noise levels, a noise level which exceeds the ambient noise level by five dBA or more, when measured at the nearest property line or, in the case of multiple-family residential buildings, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, or a noise audible to a person of reasonably sensitive hearing at a distance of 200 feet from its source, shall be deemed a prima facie violation of this article.

*Used and occupied* include the words "intended, designed or arranged to be" used or occupied.

*Watercraft* means any contrivance used, or capable of being used, as a means of transportation or recreation on water.

*Zoning districts* means those districts established in [chapter 28](#) and indicated on the official zoning map.

(Ord. No. 1996-14, § 4, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2005-26, 7-20-05; Ord. No. 2007-41, 1-2-08; Ord. No. 2010-20, 11-10-10)

**Cross reference**— Definitions generally, [§ 1-2](#).

Sec. 10-34. - Penalty for violation of article.

The penalty for violation of any section of this article shall be up to the maximum allowed by state law for municipalities to impose on ordinance violations as follows:

- (1) The first offense shall be punished by the issuance of an order to cease and desist the violation and by a fine of up to \$100.00.
- (2) The second and all subsequent offenses shall be punished by the issuance of an order to cease and desist the violation and a fine of up to \$500.00.

Each noise disturbance shall be considered a separate offense.

(Ord. No. 1996-14, § 19, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2000-17, 5-31-00)

Sec. 10-35. - Exceptions from article provisions.

The provisions of this article shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (2) The emission of sound in the performance of emergency work;
- (3) The unamplified human voice, except those activities prohibited in [section 10-41](#);

- (4) Agricultural activities, excluding those involving the ownership or possession of animals or birds;
- (5) The emission of sound in the performance of military operations, excluding travel by individuals to or from military duty;
- (6) The emission of sound in the discharge of weapons or in fireworks displays licensed by the town, from 7:00 a.m. to 11:00 p.m.;
- (7) The emission of sound in the operation of snow removal equipment at any time of day;
- (8) The emission of sound relative to permitted construction, demolition and normal maintenance activities, provided that such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday, nor between the hours of 6:00 p.m. and 8:00 a.m. on Saturdays, Sundays, and on any holiday designated as such under section 10-33 of this chapter; and
- (9) The emission of sound (up to 65 dBA) relative to weddings, bar mitzvahs, confirmations, and other similar ceremonial occasions held within HPC Zones up until 10:00 p.m. weekdays and Sundays and 11:00 p.m. Fridays, Saturdays, and the day before any legal holiday and 55 dBA from 10:00 p.m. to 7:00 a.m. each day of the week, except for Fridays, Saturdays, and the day before any legal holiday in which case the reduction to 55 dBA shall commence at 11:00 p.m.

(Ord. No. 1996-14, § 5, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2005-26, 7-20-05; Ord. No. 2007-01, 1-31-07; Ord. No. 2011-07, 5-25-11)

Sec. 10-36. - Temporary exemptions.

Upon good cause shown by the owner, operator or other responsible party of any excessive noise source, the director of public safety or his designee shall have the power to grant a temporary exemption from this article, conditioned upon the installation of needed noise control equipment, facilities, modifications or other mitigation and noise abatement measures to achieve compliance with this article, within a reasonable and sufficient period of time, but in no event beyond the date of the next available zoning board meeting.

(Ord. No. 1996-14, § 20, 8-28-96; Ord. No. 1999-16, 7-14-99)

Sec. 10-37. - Noise disturbances prohibited generally.

Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any unnecessary, excessive or offensive noise as defined in section 10-33 above.

(Ord. No. 1996-14, § 6, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2007-41, 1-2-08)

Sec. 10-38. - Measurement of sound.

(a) *General provision; tests for noise disturbances.* In addition to the definition established in section 10-37, the factors which shall be considered in determining whether a noise disturbance exists shall include, but shall not be limited to, the following:

- (1) The volume of the noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent or constant; and
- (12) Whether the noise is produced by a commercial or noncommercial activity.

(b) *Classification of use districts.* It is unlawful to project a sound or noise, from one property into another, within the boundary of a use district which exceeds either the limiting noise spectra set forth in Table 1 below, or exceeds the ambient noise level by more than three decibels.

- (1) Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of each district into which the noise is projected.
- (2) *Measurement of noise:*
  - a. The measurement of sound or noise shall be made with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
  - b. The slow meter response of the noise level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise spectra set forth in Table 1.
  - c. The measurement shall be made at the property line of the property on which such noise is generated, or perceived, as appropriate five feet above ground.
  - d. In the case of an elevated or directional sound or noise source, compliance with the noise limits is to be maintained at any elevation at the boundary.

(Ord. No. 1996-14, § 3, 8-28-96; Ord. No. 1999-16, 7-14-99)

Sec. 10-39. - Maximum permissible sound levels by receiving land use.

(a) With the exception of sound levels elsewhere specifically authorized or allowed in this article or exempted by this article or by variance, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

Table 1  
Zoning District Noise Standard  
Maximum Allowable Octave Band Sound Pressure Levels

	Residential	Business Limited & General	Waterfront	Commercial Industrial
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Octave Band Center Frequency of all Measurement (HZ)	Daytime	All other times	Daytime	All other times	Any time	Any time
31.5	76	68	79	72	79	83
63	75	67	78	71	78	83
125	69	61	73	65	73	77
250	62	52	68	57	68	73
500	56	46	62	51	62	67
1,000	50	40	56	45	56	61
2,000	45	33	51	39	51	57
4,000	40	<u>28</u>	47	34	47	53
8,000	38	<u>26</u>	44	32	44	50
Single number equivalent	60 dB(A)	50 dB(A)	65 dB(A)	55 dB(A)	65 dB(A)	70 dB(A)

(b) For any source of sound which emits a pure tone, the maximum sound level limits set forth in subsection (a) of this section shall be reduced by five dBA.

(c) Exceptions to table I are activities covered by sections 10-40, 10-43, 10-44, 10-46 and 10-50.

(Ord. No. 1996-14, § 7, 8-28-96; Ord. No. 1999-16, 7-14-99)

Sec. 10-40. - Emergency signaling devices.

(a) No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b) of this section.

(b) Testing of a stationary signaling device shall occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 30 seconds.

(Ord. No. 1996-14, § 8, 8-28-96)

Sec. 10-41. - Specific prohibited acts.

The following actions are prohibited only when causing a noise disturbance as defined in this chapter:

- (a) *Hawkers and peddlers.* No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.
- (b) *Vehicle or motorboat repairs or testing.* No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.
- (c) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning.
- (d) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (e) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m.
- (f) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (g) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such condition as to create a noise disturbance.
- (h) *Loading, unloading, opening boxes.* The creation of a noise disturbance in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (i) *Schools, courts, churches, hospitals.* The creation of any noise disturbance on any street adjacent to any school, institution of learning, church or court while the school, institution of learning, church or court are in use, or adjacent to any hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (j) *Disorderly house.* No person shall do either of the following:
  - (1) Keep a disorderly house whereby the peace, comfort, or decency of a neighbor is habitually disturbed; or
  - (2) Being the owner of and in control of the premises to permit them to be so used;
  - (3) For purposes of this section, a disorderly house is defined as a residence or dwelling in which two noise disturbances have occurred within a period of 12 months or less;
  - (4) The owner of any such residence or dwelling may assert as a defense reasonable efforts to take action against the perpetrators of the violation of this article, including the initiation of eviction proceedings.
  - (5) Any person or owner who violates the provisions of this section shall be subject to a fine not to exceed \$500.00.
- (k) *Shouting and loud conversation.* Between the hours of 11:00 p.m. and 7:00 a.m., no person shall vocalize at such excessive vocal amplification for a duration of more

than ten seconds in a residential zone that exceeds the sound level standards set forth in this chapter.

(Ord. No. 1996-14, § 9, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2003-07, 4-23-03; Ord. No. 2006-31, 10-4-06; Ord. No. 2010-12, 7-7-10; Ord. No. 2010-20, 11-10-10)

Sec. 10-42. - Musical Instruments and similar devices.

No person shall operate, play or permit the operation of any musical instrument, phonograph or other machine or device for the production or reproduction of sound, including but not limited to any stereo, radio, television, musical instrument or other noise making device for the producing or reproducing of sound within a motor vehicle, using or operating such instrument or device and such persons who are voluntarily listeners thereto or in such manner as to constitute a noise disturbance. In addition, the operation of any such instrument, phonograph, television, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be a violation of this section; provided, that nothing contained in this section shall prohibit performances by the ringing of bells in a tower, or by a band or orchestra in a hall, building or in the open air that is otherwise in compliance with local ordinances.

(Ord. No. 1996-14, § 10, 8-28-96; Ord. No. 1999-16, 7-14-99)

Sec. 10-43. - Reserved.

**Editor's note**— Ord. No. 1999-16, adopted July 14, 1999, repealed § 10-43, which pertained to the regulation of sound equipment and sound amplifying equipment, and derived from Ord. No. 1996-14, § 11, adopted Aug. 28, 1996.

Sec. 10-44. - Motorized vehicles.

- (a) No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating 10,000 pounds or more for a consecutive period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes, if the sound level emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table II, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.
- (b) No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in table II for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which such vehicles are operated. Such noise shall be measured at a distance of not more than 50 feet from the centerline of travel under test procedures established by subsection (c) of this section. If the distance of the measuring instrument from the centerline of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

Table II

Noise Limit in Relation to the Legal Speed Limit

		35 mph or less	Over 35 mph
(1)	Any motor vehicle with a manufacturer's gross vehicle weight rating 10,000 pounds or more and any combination of vehicles towed by such motor vehicle.	88 dB(A)	92 dB(A)
(2)	Any motorcycle	82 dB(A)	86 dB(A)
(3)	Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	76 dB(A)	82 dB(A)

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of this Code relating to motor vehicle muffler or noise control.

- (c) Every motor vehicle and motorboat shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dB(A) levels set forth in table II. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle.
- (d) No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler or bypass and no person shall operate a motor vehicle or motorcycle which has been so modified if the sound level emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table I.
- (e) No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real boundary.
- (f) There shall be no purposeful operator intent to create excessive engine noise, such as blatantly excessive engine revving (rapid throttle advance) and acceleration resulting in unnecessary, excessive or offensive noise as defined in section 10-33 above.

(Ord. No. 1996-14, § 12, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2007-41, 1-2-08)

**Cross reference**— Motor vehicles and traffic, ch. 16.

Sec. 10-45. - Construction.

- (a) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work for public service utilities, which creates a noise disturbance across a residential real property boundary.
- (b) This section shall not apply to:
  - (1) Emergency work or repair work performed by and for government entities or public service utilities; or
  - (2) Work for which a variance has been obtained from the town council.
- (c) The use of domestic power tools or equipment is subject to the noise levels set forth in table I.

(Ord. No. 1996-14, § 13, 8-28-96; Ord. No. 1999-16, 7-14-99)

**Cross reference**— Buildings and building regulations, ch. 9.

Sec. 10-46. - Reserved.

**Editor's note**— Ord. No. 1999-16, adopted July 14, 1999, repealed § 10-46, which pertained to stationary nonemergency signaling devices, and derived from Ord. No. 1996-14, § 14, adopted Aug. 28, 1996.

Sec. 10-47. - Animals and birds.

No person shall own, possess or harbor any animal or bird which frequently or for a continued duration emits sound that is native to the species, which sound exceeds

the dB(A) levels as set forth in table I.

(Ord. No. 1996-14, § 15, 8-28-96)

**Cross reference—** Animals generally, ch. 6.

## Sec. 10-37. - Noise disturbances prohibited generally.

Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any unnecessary, excessive or offensive noise as defined in section 10-33 above.

(Ord. No. 1996-14, § 6, 8-28-96; Ord. No. 1999-16, 7-14-99; Ord. No. 2007-41, 1-2-08)

## Sec. 10-38. - Measurement of sound.

- (a) *General provision; tests for noise disturbances.* In addition to the definition established in section 10-37, the factors which shall be considered in determining whether a noise disturbance exists shall include, but shall not be limited to, the following:
- (1) The volume of the noise;
  - (2) The intensity of the noise;
  - (3) Whether the nature of the noise is usual or unusual;
  - (4) Whether the origin of the noise is natural or unnatural;
  - (5) The volume and intensity of the background noise, if any;
  - (6) The proximity of the noise to residential sleeping facilities;
  - (7) The nature and zoning of the area within which the noise emanates;
  - (8) The density of inhabitation of the area within which the noise emanates;
  - (9) The time of the day or night the noise occurs;
  - (10) The duration of the noise;
  - (11) Whether the noise is recurrent, intermittent or constant; and
  - (12) Whether the noise is produced by a commercial or noncommercial activity.
- (b) *Classification of use districts.* It is unlawful to project a sound or noise, from one property into another, within the boundary of a use district which exceeds either the limiting noise spectra set forth in Table 1 below, or exceeds the ambient noise level by more than three decibels.
- (1) Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of each district into which the noise is projected.
  - (2) Measurement of noise:
    - a. The measurement of sound or noise shall be made with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
    - b. The slow meter response of the noise level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise spectra set forth in Table I.
    - c. The measurement shall be made at the property line of the property on which such noise is generated, or perceived, as appropriate five feet above ground.
    - d. In the case of an elevated or directional sound or noise source, compliance with the noise limits is to be maintained at any elevation at the boundary.

(Ord. No. 1996-14, § 3, 8-28-96; Ord. No. 1999-16, 7-14-99)

## Sec. 10-50. - Sound variances.

- (a) The zoning board of review shall have the authority, consistent with this section, to grant sound variances from this article after a public hearing.
- (b) Any person seeking a sound variance under this section shall file an application with the zoning board of review. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this article would constitute an unreasonable hardship on the applicant, on the community or on other persons.
- (c) All applications shall be subject to the application fee as set forth in section 11-1. Notification and advertisement shall be in accordance with provisions for a variance as set forth in the town zoning ordinances.
- (d) In determining whether to grant or deny an application, or revoke a variance previously granted, the zoning board of review shall balance the hardship to the applicant, the community and other persons if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. The zoning board may grant the relief as applied for if it finds:
  - (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or
  - (2) The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and
  - (3) That no other reasonable alternative is available to the applicant.

Applicants for sound variances and persons contesting sound variances may be required to submit any information that the zoning board of review may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, the zoning board of review shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

- (e) Sound variances shall be granted by notice to the applicant containing all conditions necessary to minimize adverse effects upon the community or the surrounding neighborhood, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject that person to those provisions of this article regulating the source of sound or activity for which the sound variance was granted.
- (f) Determination of modification of a granted variance shall also be made in accordance with the rules and procedures set forth in this section.

(Ord. No. 1996-14, § 18, 8-28-96; Ord. No. 1999-16, 7-14-99)

## ARTICLE II. - NOISE

## Sec. 13-15. - Statement of policy.

The council hereby finds that:

- (1) Excessive noise is a serious hazard to the public health, safety and welfare and the quality of life in a close urban society.
- (2) A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
- (3) Certain of the noise producing equipment in this community is essential to the quality of life and should be allowed to continue at reasonable levels with responsible regulation.
- (4) Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.
- (5) It is the declared policy of the town to promote an environment free from excessive noise, otherwise properly called noise pollution, which unnecessarily jeopardizes the public health, safety and welfare and degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community.

(Amend. of 6-9-2001)

## Sec. 13-16. - Purpose, title and scope of article.

- (a) *Purpose.* The purpose of this article is to establish standards for the control of noise pollution in the town by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.
- (b) *Title.* This article may be cited as the "Noise Abatement Ordinance" of the town.
- (c) *Scope.* This article shall apply to the control of all noise originating within the limits of the town provided that:
  - (1) A state or federal agency has not adopted a different standard or rule than that prescribed in this article and has so preempted the regulation of noise from a particular source as to render this article inapplicable thereto; or
  - (2) The council has not determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the town, or has not granted a variance pursuant to section 10-50.

(Amend. of 6-9-2001)

## Sec. 13-17. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms used in this article, which are not defined in this section, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

*A-scale (dBA)* means the sound level in decibels measured using the A-weight or network as specified in ANSI Standard 1.4-1971 for sound level meters. The level is designated dB(A) or dBA.

*Ambient sound level* means the noise associated with a given environment, exclusive of intruding noises from isolated identifiable sources.

*ANSI* means the American National Standards Institute or its successor body.

*Construction* means any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair of equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

*Decibel (dB)* means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Dwelling unit* means a building or portion thereof regularly used for residential occupancy.

*Dynamic braking device* means a device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

*Impulsive sound* means sound short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

*Lot* means any tract or parcel of land owned by or under the lawful control of one distinct ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one (1) person from that owned by another.

*Mixed use* means a dwelling unit or school located in a commercial or an industrial zone.

*Motor vehicle* means any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

*Motorboat. See Watercraft.*

*Motorcycle* means any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground. The term shall include motorized bicycles, motor scooters, mopeds and the like.

*Narrow band sound* means a sound characterized by normal listeners as having a predominant pitch or series of pitches; sound described by such listeners as "whine," "hiss," "toot," or "wail"; or a sound whose frequencies occupy an octave band or less.

*Noise control office* means the town department having responsibility for the enforcement of this article.

*Noise disturbance* means any sound which exceeds the dBA level for such sound set out in this article.

*Nonconforming use* means a use of a structure, building or land which was established as permitted use and which has been lawfully continued pursuant to the zoning code of the town, but which is not a permitted use in the zone in which it is now located.

*Offroad recreational vehicle* means any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

*Person* means any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the town.

*Physical characteristics of sound* means the steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

*Plainly audible* means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible rhythms.

*Port facilities* means any and all public or private facilities used for the repair, loading or unloading of ships within the town, including, but not limited to, shipyards, repair yards and dry docks.

*Powered model vehicle* means self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designed to carry a person, including, but not limited to, any model airplane, boat, car or rocket.

*Public right-of-way* means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

*Public space* means any real property; including any structure thereon, which is owned or controlled by a governmental entity.

*Pure tone* means any sound which can be distinctly heard as a single pitch or set of single pitches.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intrabuilding real property divisions.

*Receiving land use* means the use or occupancy of the property which received the transmission of the sound.

*Residential property* means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in ANSI specifications for sound level meters (ANSI Standard 1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or play meter, and weighting networks used to measure sound pressure levels, which complies with ANSI Standard 1.4-1971.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

*Sound pressure level* means twenty (20) times the logarithm to the base ten ratio of the RMS sound pressure to the reference pressure to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

*Steady sound* means a sound whose level remains essentially constant ( $\pm 2\text{dB}$ ) during the period of the sound level meter.

*Town* means the Town of Warren, Rhode Island, or the area within the territorial limits of the town over which the town has the jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.

*Unnecessary, excessive or offensive noise* means any sound or noise conflicting with criteria, standards or levels set forth in this article for permissible noises (tables I and II in section 13-23 and section 13-28). In the absence of specific maximum noise levels, a noise level which exceeds the ambient noise level by five (5) dBA or more, when measured at the nearest property line or, in the case of a multiple-family residential building, when measured anywhere in one (1) dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, shall be deemed a prima facie violation of this article.

*Used and occupied* include the words "intended, designed or arranged to be" used or occupied.

*Watercraft* means any contrivance used, or capable of being used, as a means of transportation or recreation on water.

*Zoning districts* means those districts established in chapter 32 and indicated on the official zoning map.

(Amend. of 6-9-2001)

Sec. 13-18. - Penalty for violation of article.

The penalty for violation of any section of this article shall be up to the maximum allowed by state law for municipalities to impose on ordinance violations as follows:

- (1) The first offense shall be punished by the issuance of a warning to cease and desist the violation.
- (2) The second offense shall be punished by a fine of up to one hundred dollars (\$100.00).
- (3) The third and all subsequent offenses shall be punished by a fine of up to five hundred dollars (\$500.00), and each day the violation continues shall be considered a separate offense.

(Amend. of 6-9-2001)

Sec. 13-19. - Exceptions from article provisions.

The provisions of this article shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (2) The emission of sound in the performance of emergency work;
- (3) Noncommercial public speaking and public assembly activities conducted on any private property, public space or public right-of-way, except those activities controlled by section 10-43, or for which a permit and noise variance have been issued pursuant to this article;
- (4) The unamplified human voice, except those activities prohibited by subsection 13-25(a);
- (5) Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;
- (6) The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty;
- (7) The emission of sound in the discharge of weapons or fireworks displays licensed by the town, from 7:00 a.m. to 11:00 p.m.;
- (8) The emission of sound in the operation of snow removal equipment at any time of day; and
- (9) The emission of sound relative to permitted construction, demolition and normal maintenance activities, provided that such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m.

(Amend. of 6-9-2001)

Sec. 13-20. - Temporary exemptions.

Upon good cause shown by the owner, operator or other responsible party of any excessive noise source, the town council shall have the power to grant a temporary exemption from this article, conditioned upon the installation of needed noise control equipment, facilities, modifications or other mitigation and noise abatement measures to achieve compliance with this article, within a reasonable and sufficient period of time.

(Amend. of 6-9-2001)

Sec. 13-21. - Noise disturbances prohibited generally.

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance.

(Amend. of 6-9-2001)

Sec. 13-22. - Measurement of sound.

- (a) If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this article, a sound level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.
- (b) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in ANSI Standard 1.4-1971 for type II instruments.
- (c) When the location or distance prescribed in this article for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this article.
- (d) Procedures and tests required by this article and not specified in this section shall be placed on file with the town clerk.

(Amend. of 6-9-2001)

Sec. 13-23. - Maximum permissible sound levels by receiving land use.

- (a) With the exception of sound levels elsewhere specifically authorized or allowed in this article or exempted by this article or by variance, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

Table I

Sound Levels for Receiving Land Use  
Penalties for Violating Levels

Location of Receiving Land Use	Time	Sound Limit dBA
Zoning District:		
Residential	7:00 a.m. to 10:00 p.m.	65 dBA
	10:00 p.m. to 7:00 a.m.	55 dBA
Business		
Village Business	At all times	75 dBA
General	At all times	75 dBA
Waterfront	At all times	75 dBA
Manufacturing	At all times	75 dBA

- (b) Notwithstanding any other provision of this article, business with a liquor license which is cited for a noise disturbance is subject to the penalty for a violation in the general business district as set out in table I.
- (c) For any source of sound which emits a pure tone, the maximum sound level limits set forth in subsection (a) of this section shall be reduced by five (5) dBA.
- (d) Exceptions to table I are activities covered by sections 13-24, 13-27, 13-28, 13-30 and 13-34.  
(Amend. of 6-9-2001)

Sec. 13-24. - Emergency signaling devices.

- (a) No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b) of this section.
- (b) Testing of a stationary signaling device shall occur at the same time of day each time the test is performed, but no before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed thirty (30) seconds.  
(Amend. of 6-9-2001)

Sec. 13-25. - Specific prohibited acts.

- (a) *Hawkers and peddlers.* No person shall create a noise or disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.
- (b) *Vehicle or motorboat repairs or testing.* No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.  
(Amend. of 6-9-2001)

Sec. 13-26. - Musical instruments and similar devices.

No person shall operate, play or permit the operation of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary or outdoors.

(Amend. of 6-9-2001)

Sec. 13-27. - Regulation of sound equipment and sound amplifying equipment.

Except for activities open to the public and for which a permit and a noise variance have been issued by the town, no person shall operate, play or permit the operation or playing of any radio, television, phonograph or other sound amplifying equipment so as to create a noise disturbance.

(Amend. of 6-9-2001)

Sec. 13-28. - Motorized vehicles.

- (a) No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating ten thousand (10,000) pounds or more for a consecutive period longer than twenty (20) minutes while such vehicle is standing and located within one hundred fifty (150) feet of property zoned and used for residential purposes, if the sound level

emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table I, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.

- (b) No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in table II for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which such vehicles are operated. Such noise shall be measured at a distance of not more than fifty (50) feet from the centerline of travel under test procedures established by subsection (c) of this section. If the distance of the measuring instrument from the centerline of travel is less than fifty (50) feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

Table II

Noise Limit in Relation to the Legal Speed Limit.

	35 mph or less	Over 35 mph
(1) Any motor vehicle with a manufacturer's gross vehicle weight rating 10,000 pounds or more and any combination of vehicles towed by such motor vehicle.	88 dB(A)	92 dB(A)
(2) Any motorcycle.	82 dB(A)	86 dB(A)
(3) Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle.	76 dB(A)	82 dB(A)

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of this Code relating to motor vehicle muffler or noise control.

- (c) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by ANSI. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during the measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources shall be noted and adjustments made so that these and other background noise do not interfere with the primary noise being measured.

- (d) Every motor vehicle and motorboat shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dB(A) levels set forth in table II. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle.
- (e) No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler or bypass and no person shall operate a motor vehicle or motorcycle which has been so modified if the sound level emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table I.
- (f) No person shall operate a recreational vehicle or permit the operation of one (1) or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real boundary.

(Amend. of 6-9-2001)

Sec. 13-29. - Construction.

- (a) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work for public service utilities, which creates a noise disturbance across a residential real property boundary.
- (b) This section shall not apply to:
  - (1) Emergency work or repair work performed by and for government entities or public service utilities; or
  - (2) Work for which a variance has been obtained from the town council.
- (c) The use of domestic power tools or equipment is subject to the noise levels set forth in table I.

(Amend. of 6-9-2001)

Sec. 13-30. - Stationary nonemergency signaling devices.

- (a) No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes from any place, for more than one (1) minute in any hour.
- (b) Devices used in conjunction with places of religious worship shall be exempt from the operation of this section.
- (c) Exemptions for sound sources covered by this section, but not exempted under subsection 10-45(b), may be granted by the town council under the procedure set forth in section 10-50.

(Amend. of 6-9-2001)

Sec. 13-31. - Animals and birds.

No person shall own, possess or harbor any animal or bird which frequently or for a continued duration emits sound that is native to the species, which sound exceeds the dB(A) levels as set forth in table I.

(Amend. of 6-9-2001)

Sec. 13-32. - Implementation, administration and enforcement of article.

- (a) This article shall be implemented, administered and enforced by the town police department or any other town department or division designated by the town manager.
- (b) The provisions of this article which prohibits a person from making or continuing noise disturbances, or causing the noise disturbance to be made or continued, across a real property boundary, shall be enforced by the police department or any other town department or division as designated by the

town manager.

- (c) To implement and enforce this article, the police department, or any duly designated town agency, shall have the power to:
- (1) Conduct research, monitoring and other studies related to sound;
  - (2) Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise as well as the actions prohibited by this article and the procedures for reporting violations;
  - (3) Coordinate the noise control activities of all town departments;
  - (4) Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this article, if these projects are likely to cause sound in violation of this article;
  - (5) Issue sound variances pursuant to section 13-34; and
  - (6) Prepare recommendations for consideration by the town council, after publication of notice and after a public hearing.

(Amend. of 6-9-2001)

#### Sec. 13-33. - Departmental actions.

All departments and agencies of the town shall carry out their programs in furtherance of the policies set forth in this article.

(Amend. of 6-9-2001)

#### Sec. 13-34. - Sound variances.

- (a) The zoning board of review shall have the authority, consistent with this section, to grant sound variances from this article after a public hearing.
- (b) Any person seeking a sound variance under this section shall file an application with the zoning board of review. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this article would constitute an unreasonable hardship on the applicant, on the community or on other persons.
- (c) All applications shall be subject to the application fee as set forth in section 32-8. Notification and advertisement shall be in accordance with provisions for a variance as set forth in the town zoning ordinances.
- (d) In determining whether to grant or deny an application, or revoke a variance previously granted, the zoning board of review shall balance the hardship to the applicant, the community and other persons if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that the zoning board of review may reasonable require. In granting or denying an application or in revoking a sound variance previously granted, the zoning board of review shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.
- (e) Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance

shall terminate it and subject the person holding to those provisions of this article regulating the source of sound or activity for which the sound variance was granted.

- (f) Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

(Amend. of 6-9-2001)

Adopted by the Jamestown Town Council

January 23, 2006

Attest:

Arlene D. Petit  
Town Clerk

**AN ORDINANCE AMENDING CHAPTER 22  
OF THE CODE OF ORDINANCES OF THE  
TOWN OF JAMESTOWN**

The following proposed ordinance is intended to amend ARTICLE III. NOISE. Sec. 22-61 and 22-62. The ordinance contains new provisions under Sec. 22-63 through Sec. 22-68.

**The Town of Jamestown hereby ordains:**

**ARTICLE III NOISE**

**Sec. 22-61. ~~Loud, unnecessary and excessive noises; prohibited generally~~ Statement of public policy.**

~~It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the town.~~

The town council finds and declares that extreme and excessive noise affects the health, safety and welfare of its residents and citizens.

**Sec. 22-62. ~~Prohibited acts; enumeration~~ Purpose, title and scope.**

- (a) The purpose of this article is to establish objective standards to control extreme and excessive noise by setting maximum permissible sound levels for certain times and places in town.
- (b) This article may be cited as the "Noise Ordinance of the Town of Jamestown."
- (c) This article applies within the town limits as specified below.

**Sec. 22-63. Measurement of sound.**

Decibel measurement under this article shall be made with a sound level meter, which shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified by American National Standards Institute (ANSI) standard 1.4-1971. For purposes of this article, a sound level meter shall contain A-weighted scale and both fast and slow meter response capability.

**Sec. 22-64. Freedom of Speech and Expression Unaffected.**

This article should not be interpreted, construed or applied in a manner that is inconsistent or violative of the First Amendment to the U.S. Constitution or Article I, Section 21 of the Rhode Island Constitution.

**Sec. 22-65. Prohibited Noises.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise in excess of the decibel limits set forth in this article.

**Sec. 22-66. Maximum permissible sound levels.**

<u>Zoning Category</u>	<u>Time</u>	<u>Decibel Limit</u>
<u>Residential, and open space</u> <u>(OS-I, OS-II, RR-200, RR-80,</u> <u>R-40, R-20, R-8)</u>	<u>8:00 a.m. to 10:00 p.m.</u>	<u>70</u>
	<u>10:00 p.m. to 8:00 a.m.</u>	<u>60</u>
<u>Business (neighborhood, waterfront and general)</u> <u>(CL, CD, CW, DC)</u>	<u>ALL</u>	<u>75</u>
<u>Public</u>	<u>ALL</u>	<u>75</u>

**Sec. 22-67. Enforcement.**

This article shall be implemented, administered and enforced by the town police department.

**Sec. 22-68. Penalties.**

Any person found to be in violation of this article shall be punished as follows:

- (1) The first offense shall be punished by the issuance of a written warning to cease and desist the violation.
- (2) The second offense shall be punished by a fine of \$25.00.
- (3) The third offense and each subsequent offense shall be punished by a fine of \$100.00.

**Sec. 22-69 – 22-85. Reserved.**

This Ordinance shall take effect upon passage.

8.12.080. - Maximum permissible sound levels by receiving land use.

A. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, or unless some other standard or compliance determination location is specifically applied elsewhere in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I**  
**Sound Levels by Receiving Land Use and**  
**Penalties for Violating Levels**

Location of Receiving Land Use	Time	Sound Limit dBA
<b>Zoning District:</b>		
Residential	7:00 a.m. to 9:59 p.m.	65 dBA
	10:00 p.m. to 6:59 a.m.	55 dBA
Limited Business	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
General Business	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
Waterfront Business	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
Commercial/Industrial	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
<b>Other:</b>		
Public Water	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	65 dBA
Noise Sensitive Area	7:00 a.m. to 9:59 p.m.	65 dBA
	10:00 p.m. to 6:59 a.m.	55 dBA

B. Notwithstanding any other provision of this chapter, any business with a liquor license which is cited for a noise disturbance is subject to the penalty for a violation in the general business district as set out in this section.

C. For any source of sound which emits narrow band sound, the maximum sound level limits set forth hereinabove shall be reduced by five dBA.

D. Exceptions to Table I are activities covered by the following Sections: 8.12.090, 8.12.120, 8.12.130, 8.12.150 and 8.12.180.

(Ord. 2004-17 § 1 (part), 2004)

(Ord. No. 2011-020, § 1, 8-10-2011)

PORTSMOUTH TOWN COUNCIL MEETING  
May 7, 2008

MEMBERS PRESENT: Dennis M. Canario, Leonard B. Katzman, Hubert E. Little  
and William E. West

MEMBERS ABSENT: James A. Seveney, Karen J. Gleason and Peter J. McIntyre

7:00 p.m. – Town Council Chambers, Town Hall, 2200 East Main Road

**PLEDGE OF ALLEGIANCE**

A moment of silence for our men and women around the world in harm's way and in  
memory of Douglas Wilkey, School Committee Member.

**OLD BUSINESS**

**HEARINGS:**

1. Zoning Ordinance Amendment: Article III, Section B 4 and Zoning Map

Plat 41, Lots 29A and Lot 48 in their entirety and the southerly 96 feet of lot 51,  
request to be re-zoned from Residential to Commercial (fr. 3/24 and 4/14)

Vernon L. Gorton, Esq., representing both property owners, Mr. and Mrs. Lantz (lots 48  
& 51) and Mr. Taggart (lot 29A), and Robert M. Silva, Esq., representing the neighbors,  
requested a few minutes to confer before addressing the Council.

2. Zoning Ordinance Amendment: Article III, Section B 4 and Zoning Map

Plat 45, lot 44-B, request to be re-zoned from Residential to Commercial (fr. 4/14)

Stetson W. Eddy, Esq., representing CAMPAC United Corp., owner of the property (Map  
45, Lots 44A and 44B) requested the zoning be changed to mirror current use.

Arthur Stephanopoulos, son of abutters that own the building housing Chris's Diner, a  
barbershop and Leisure Limousine, gave a summary of complaints and asked for noise,  
odor and smoke from the idling busses to not come on his property.

Attorney Eddy and Mr. Stephanopoulos left the chambers to confer.

3. Zoning Ordinance Amendment: Article III, Section B 4 and Zoning Map

Map 51, lots 49, 51, 52 and 54, request to be re-zoned from Light Industrial to  
Residential

Robert Bradley, owner of 1734 West Main Road (Map 51 lot 49) requested his lot be rezoned residential.

John Vitkevich explained that all the houses requesting the change were there prior to the 1980 Zoning Ordinance.

A motion by Mr. West, seconded by Mr. Little, to approve the request to change Map 51, Lots 49, 51, 52 and 54 from Light Industrial Zone to Residential R-20 Zone. All voted in favor of the motion.

A motion by Mr. Little, seconded by Mr. West, to close the Public Hearing for OB #3. All voted in favor of the motion.

TIME: 7:20 p.m. Break  
TIME: 7:25 p.m. Return

Attorneys are not yet ready.

TIME: 7:27 p.m. Break  
TIME: 7:45 p.m. Return

#2. Attorney Eddy said they had a possible agreement and requested a continuance.

President Canario said that if there is an agreement it will be heard at the Town Council Meeting of June 9<sup>th</sup>. Should the interested parties still disagree the hearing will be continued to a date that is not a regular Town Council Meeting.

A motion by Mr. Little, seconded by Mr. West, to continue this Public Hearing to June 9<sup>th</sup>. All voted in favor of the motion.

TIME: 7:50 p.m. Break  
TIME: 8:00 p.m. Return

#1. Attorneys Gorton and Silva said the petitioners and neighbors had come to an agreement with the following conditions:

- a. Mr. Lantz will erect an 8 foot high fence along his northerly boundary where he shares with the Warings westward to where it meets his existing shed. The existing 6 foot fence will remain.
- b. He will refrain from operating his firewood processor before 9:00 a.m. on Saturdays from May 1<sup>st</sup> to September 1<sup>st</sup> and before 8:00 a.m. on Saturdays the remainder of the year.

- c. Any new exterior lighting that is installed will be no higher than 20 feet will be shielded and directed to shine light on the premises and not on the adjacent property.
- d. Lot 51 will be utilized only as storage accessory to the business present operated as Bill's Sales. The storage shall not be over 8 feet high, it should also be used for the limited parking of vehicles as he presently utilizes it, and if the use of Bill's Sales property changes, that property will go back to residential zoning (the rear 50 feet).

In terms of Mr. Taggert's conditions:

- a. He has agreed to the same restrictions on any additional lighting.
- b. He's also agreed that the premises will not be used for the sale of food, tobacco, alcohol, milk or gasoline.
- c. If he brings a towed car to his lot between 9:00 p.m. and 7:00 a.m., he will place it in the building or on the east side of the building and not in the rear storage lot unless there is an emergency that makes that unavoidable.
- d. He will not test drive cars on Crossings Court.
- e. Any further curb cut onto Crossings Court would require the agreement of the neighbors or the Zoning Board of Review approval.
- f. Mr. Waring and Mr. Taggert will select an agreed upon surveyor to locate their mutual boundary line.
- f. Once the surveyor locates the boundary line, if the fence has to be moved, Mr. Taggert will bear the expense of moving the fence.
- g. Mr. Taggert and Mr. Lantz will pay Mr. Waring a total of \$1500.00 and he can put whatever bushes he wants on his side of the property and he'll be responsible to maintain.

A motion by Mr. West, seconded by Mr. Little, to approve the zoning change with the conditions as stated.

Mr. Little stated, for the record, that he will vote for this only because the businesses have agreed to it.

The motion carried 3-1 with President Canario opposed.

A motion by Mr. Little, seconded by Mr. West, to close the Public Hearing for OB #1.  
All voted in favor of the motion.

A motion by Mr. Little, seconded by Mr. West, to adjourn. All voted in favor of the  
motion.

ADJOURN  
TIME: 8:12 p.m.

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Kathleen Viera Beaudoin  
Town Clerk

**TOWN OF PORTSMOUTH, RI  
ZONING ORDINANCE AMENDMENT**

**#2008-05-07 A**

An Ordinance in Amendment to the Zoning Ordinance adopted effective July 1, 1994:

Be it ordained by the Town Council of the Town of Portsmouth as follows:

Section 1: "the Zoning Ordinance of the Town of Portsmouth, as amended, effective July 1, 1994, is hereby further amended as follows:

1. Article III, Section B4 is hereby amended to remove Lot 29A and Lot 48 in their entirety and the southerly 96 foot portion of Lot 51 on Map 41 from the designation of Residential and said Lot 29A and Lot 48, in their entirety, and the southerly 96 foot portion of Lot 51 on Map 41 shall hereafter be designated as Commercial subject to the following conditions:

The owner(s) of Lot 48 and Lot 51 on Map 41, including their successors and assigns, shall:

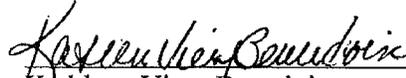
- a. Erect an 8 foot high opaque fence along the northerly boundary of said Lot 48, which boundary is common with the southerly boundary of Lot 52. Said fence shall continue in a westerly direction until it meets an existing shed on Lot 51. Furthermore, an existing 6 foot fence shall remain and continue to be maintained by the owner(s) of said Lot 48 and Lot 51.
- b. The firewood processor used in the existing commercial business located on Lot 48 shall not be operated before 9:00AM on Saturday mornings from May 1<sup>st</sup> to September 1<sup>st</sup> and shall not be operated before 8:00AM in the morning on the Saturdays of the remaining calendar year.
- c. The owner(s) of said Lot 48 and Lot 51 shall not install any new exterior lighting higher than 20 feet, which, if installed, shall be shielded and directed downward to illuminate the subject premises and not the adjacent neighborhood properties.
- d. The southerly 96 foot portion of Lot 51 shall be utilized only as storage accessory to the existing business presently known and being operated as Bill's Sales. Said accessory storage shall not be over 8 feet high, however, it may also allow limited parking of vehicles as it is presently utilized. If the present business operated and known as Bill's Sales shall cease, then said

southerly 96 foot portion of Lot 51 shall be re-designated as Residential, rather than Commercial.

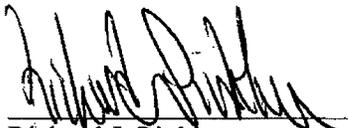
The owner(s) of Lot 29A, Map 41, including their successors and assigns, shall:

- a. Not install any new exterior lighting higher than 20 feet, which shall be shielded and directed downward to illuminate the subject premises and not the adjacent neighborhood properties.
  - b. Not allow the premises to be used for the sale of food, tobacco, alcohol, milk or gasoline.
  - c. Vehicles towed to lot 29A between 9:00 pm and 7:00 a.m. will be initially stored in the building or on the east and north sides thereof and not in the rear storage area, except in cases of emergency requiring storage in the rear storage area.
  - d. That test driving of cars or other vehicles on Crossings Court shall be prohibited.
  - e. Any additional curb cut onto Crossing Court from lot 29A shall require agreement of the owners of Lots 52 and 49 or permission of the Portsmouth Zoning Board of Review.
  - f. That the owner(s) of Lot 29A and Lot 52 shall agree upon the name of a professional land surveyor who shall locate the common boundary line between Lot 29A and Lot 52. And once located, if the existing fence has to be moved to comply with the common boundary line as so located, then the owner(s) of Lot 29A shall pay the expense of moving and relocating the existing fence to comply with the newly located common boundary line.
  - g. That the owner(s) of Lot 29A shall pay to the owner(s) of Lot 52 the sum of \$1,500.00, to be used in their discretion for additional landscaping along said common boundary line area.
2. Subject to the aforementioned conditions, the boundaries of the Zoning Ordinance as shown on the Zoning Map entitled "Town of Portsmouth Official Zoning Map," dated December 1991, and filed with the Town Clerk, hereinafter called 'Zoning Map', are hereby amended, and said Zoning Map is hereby modified to provide that Lot 29A and Lot 48, in their entirety, and the southerly 96 foot portion of Lot 51 on Map 41, as presently constituted, are hereby designated as Commercial.

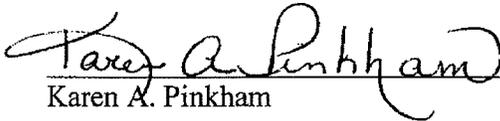
APPROVED BY TOWN COUNCIL  
ACTION ON MAY 7, 2008.

  
Kathleen Viera Beaudoin,  
Town Clerk

Approved for submittal to the Portsmouth Town Council:

  
Richard J. Pinkham

  
Witness

  
Karen A. Pinkham

  
Witness

5 | 27 | 09      5-27-09  
Date

GRANTORS:

J & B Realty, LLC  
c/o Jonathan Taggart

Robert A. Lantz  
Morgan A. Lantz

GRANTEES:

Richard J. Pinkham  
Karen A. Pinkham

RECEIVED  
PORTSMOUTH, RI  
Sep 14, 2009 02:37:01P  
KATHLEEN VIERA BEAUDOIN  
TOWN CLERK



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**PETITIONER'S MEMORANDUM**

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**TO:** PORTSMOUTH TOWN COUNCIL

**FROM:** BILL'S SALES FIREWOOD, OWNER- ROBERT LANTZ  
By: Adam H. Thayer, Esq.

**SUBJECT:** PROPOSED AMENDMENTS TO CHAPTER 257 OF THE  
PORTSMOUTH TOWN CODE-NOISE ORDINANCE

**DATE:** DECEMBER 8, 2015

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**STATEMENT OF FACTS**

The property located at 1960 East Main Road, Portsmouth, RI, known as Bill's Sales Firewood, is best described as being located in the East Main Road commercial complex. It is abutted to the north on East Main Road by Ray's Auto Clinic. Further to the north, also on East Main Road, adjacent to Ray's Auto Clinic, is 401 Motoring, Barber Shop and Creative Motion Dance Studio. It is abutted to the south, also on East Main Road, by the Portsmouth Water and Fire District. On the easterly side of East Main Road is a continuous complex of commercial uses. To the north are Subway, Sell It Again Sports, Dr. Swanson, Montessori, and Sea Meadow Stylist. Directly opposite Bill's Sales are Ferreira's Package Store and Fatagati's Fresh Pasta. To the south are Portsmouth Auto Sales & Repair, First Student Bus Terminal and Perry's Pooch.

Since 1975, the property at Bill's Sales has been lawfully utilized for the making of cords of firewood and wood constructed products. In decades past, the utilization of the property was much noisier, as the wood cutting was performed with chain saws. In more recent years, with the aid of technology, the property emanates significantly lower levels of sound. In 2010, the Town Council approved Bill's Sales application to build a showroom on the property to showcase many of the company's products. The new building was met with widespread approval and allowed the business to expand. Bill's Sales presently has 9 employees, many of whom are Portsmouth residents.

In 1991, the Town enacted an ordinance related to noise, Ordinance No. 91-8-5 (the "Ordinance"). Pursuant to §257-7 of the Ordinance, the limits for commercial properties at all times was and is 75 dba, and the limit for residential properties between the hours of 7:00 AM and 10:00 PM was and is 65 dba and 55 dba between the hours of 10:00 PM and

7:00 AM (See attached Exhibit A). Further, the Ordinance requires that the sound levels be measured from the parcel receiving the sound, not necessarily the parcel producing the sound. Nevertheless, after the adoption of the Ordinance, Bill's Sales continued to operate without any complaint of noise emanating from the property.

In 2002, the owner of the vacant lot at 30 Crossing Court elected to construct a residential house, adjacent to the pre-existing East Main Road commercial complex and abutting Bill's Sales to the north. This effectively reduced Bill's Sales permissible sounds levels by 10 dba during the day and 20 dba at night. This change occurred without any alteration in the use of the property, nor any other action or inaction by Bill's Sales. This automatic decibel reduction was without any hearing or any other due process afforded to Bill's Sales. Yet, for another decade there were no complaints of noise from the operation of the business.

Recently however, there have been noise complaints, which, pursuant to the Ordinance, carry penalties of fines and/or imprisonment (See attached Exhibit B). The only relief afforded to Bill's Sales by the Ordinance is a per diem variance, the cost of which is \$50 per day (See attached Exhibit C). If granted, that would amount to an unduly burdensome cost of \$18,250 annually to Bill's Sales.

In an effort to comply with the reduced decibel limits, Bill's Sales has taken numerous measures to decrease its sound output, at considerable expense. They are as follows:

1. First, they discontinued the use of a large Green Spinner/Loader and moved the machine to the other side of the lot to be as far from the abutting residential property as possible (See attached Exhibit D).
2. Bill's Sales also completely removed their loading dock for the kiln dried firewood. This loading dock was critical to the loading of firewood bins, and as a result the business now loads them from the ground with added difficulty.
3. Bill's Sales also redesigned its skid steer so that the kiln dried bins will not rattle while being moved around the property. Specifically, they installed a hydraulic arm that grabs the baskets firmly, thereby eliminating much of the noise.
4. They installed a 10 foot fence and affixed it with Acoustifence, a noise barrier material, to the exterior catwalk to help reduce the sounds of logs being moved onto the trough and into the building (See attached Exhibits E and F).
5. Bill's Sales has also constructed a large 14 foot tall cement wall along the northerly property line abutting the residential property, composed of 2'x 2'x 8' blocks. They also positioned a trailer along the property line. (See attached Exhibit G).

6. They added a hood to the exhaust fan for the kiln facing away from the residential property and added an electronic dimmer switch to slow the fan's speed to decrease its sound output.

As a result of these concerted, good-faith efforts, Bill's Sales has drastically reduced the sound output of its business. Nevertheless, due to the nature of its business, Bill's Sales is unable to entirely eliminate the occasional short duration sounds between 65 and 75 dba during their regular daytime business operations.

### **PROPOSED AMENDMENTS**

Based on the foregoing, Bill's Sales has proposed an amendment to the Ordinance. (See attached Exhibit H). Specifically, the following amendments are proposed:

#### **§257-5 Exceptions**

L. Any other provision of this Ordinance notwithstanding, any commercial use existing prior to the adoption of Ordinance No 91-8-5 on August 5, 1991 shall have the right to continue operating up to 75 dba between the hours of 7:00 AM to 6:00 PM, and this chapter shall not apply to all sounds of 75 dba or less that are transmitted beyond its property line during the aforesaid hours.

#### **§257-18 Sound Variances**

C. 1. All applications shall be accompanied by an application fee in an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

2. If a temporary variance is granted, the fee shall be \$50 per day.

3. For any business whose operation is at a fixed location, if a variance is granted, the annual fee shall be Five Hundred (\$500) dollars.

### **ARGUMENT**

Bill's Sales Firewood has been a valuable member of the local community for nearly half a century. Despite no change in use or action of the business, its permissible decibel output was drastically reduced approximately 13 years ago by the adoption of the existing Ordinance. Due to recent complaints, Bill's Sales has expended tens of thousands of dollars and hundreds of man hours diligently attempting to reduce its decibel output. Notwithstanding these good faith efforts, Bill's Sales faces an uncertain future and the possibility of being forced to close its doors due to the impossible task of reducing the

entirety of its operating sounds below the residential 65 dba limit imposed by the recently constructed residence abutting the northern property line. Accordingly, it now respectfully asks the Town for help to save its business and the jobs of 9 local residents by granting the herein detailed amendments to the Ordinance. Bill's Sales simply wishes to continue operating as it has since 1975, within the accepted commercial decibel limits for the following reasons.<sup>1</sup>

### **Comprehensive Town Plan**

Granting the proposed amendments to the Ordinance would be consistent with the Comprehensive Town Plan (the "Plan"), specifically its provisions on Land Use and Economic Development. The Plan advises that the Town should proceed in a manner "consistent with the character of the existing land uses and with the established community goals" including "economic development." (Land Use §I, A, 1). The Plan states that the Town should strive to maintain the balance of nonresidential and residential taxes bases to ensure the Town can successfully deliver services over the long term. (See Land Use §IV, B, 5). This is crucial for the continued success and prosperity of the Town and its residents as "[b]usiness and industry does not demand as much in services as they pay in taxes." (Economic Development §IV, A, 4).

See attached (Exhibit J) for a copy of Figure 18 from the Plan, which details the Gain/Loss per Dollar Town Government Revenue. (See Economic Development §IV, B). As Figure 18 details, the Town loses approximately 16 cents per dollar collected from residential properties, but gains approximately 73 cents per dollar collected from commercial properties. In addition, the Plan opines that "[a]ny business type has a multiplier effect, such as related businesses generation and spin-off effects, like the ability of Town residents to pay their taxes and patronize consumer-related business." (Economic Development §IV, A, 4). Accordingly, the Plan advises "[a] continuing effort to increase the number of jobs- jobs that fit the Town's character and the skills of its labor force cannot be ignored." (Economic Development §IV, B). The Plan details the roles each layer of government should play toward that end, and states that as a municipality the "[t]own should take the initiative in attracting new business and in helping existing business." (Economic Development §IVD, 3, a).<sup>2</sup>

Based on the foregoing, the Plan concludes that the "target ratio of nonresidential to residential tax base is 19%." (Economic Development §V, B). At present, the ratio is 11.9%. The difficulty in achieving the 19% ratio is partially due to the fact that "[t]he

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<sup>1</sup> Please see attached Exhibit I, "Loudness Comparison Chart" to help provide context for the decibel levels at issue.

<sup>2</sup> This sentiment was echoed in the Plan by a survey conducted by the Portsmouth Citizen Advisory Committee which concluded that "[o]ver 82% [of respondents] strongly agreed that Town officials should guide economic development efforts to sustain growth in employment and the tax base by encouraging industry and commerce whose impact on the environment and character of the Town are 'within acceptable limits'." (See Economic Development §IV, E)

zoning in Portsmouth unfortunately zoned for strip commercial development just one lot deep along certain portions of East Main Road. Rapid residential development behind these commercial lots severely limits the ability to create any sort of retail town center without significant property acquisition.” (Land Use §3, B) Given the resulting lack of available commercial development locations, the Plan advises that the Town adopt a flexible zoning “format for commercial and industrial districts which tailors the required site design standards to the specific type of use and nature of the parcel, as opposed to a rigid and inflexible set of standards.” (Land Use §IV, C, 4)

Accordingly, approval of the proposed amendments to the Ordinance will further the goals of the Town’s Comprehensive Plan by allowing fixed businesses to apply for a variance of the Ordinance. However, and perhaps more importantly, it will allow those businesses in existence prior to the Ordinance’s passing in 1991, to continue their operations up to the prescribed commercial limit during regular business hours. This will help to preserve the jobs of local residents and ensure the continued economic success of the Town.

### **Legal Analysis**

The current Ordinance as applied to the Bill’s Sales’ property located at 1960 East Main Road, Portsmouth, RI, is unlawful for the following reasons:

1. It bears no substantial relationship to the public health, safety, morals or general welfare of the Town and its residents.
2. It constitutes an unconstitutional confiscation and regulatory taking of property in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article 1, Section 16 of the Rhode Island Constitution.

In Bourque v. Dettores, 589 A2d 815 (RI 1991) at page 820, our Supreme Court stated that “[a] general principle to be drawn from *Eubank*, *Cusack*, and *Roberge* is that the government’s power to interfere with the general rights of a landowner by restricting the character of his use is not unlimited, and any restriction upon his use cannot be imposed unless it bears a ‘substantial relationship to the public health, safety, morals, or general welfare.’” *Roberge*, 278 U.S. at 121, 49 S. Ct. at 51-52, 73 L.Ed. at 213 (quoting *Nectow v. Cambridge* 277 U.S. 183, 188, 48 S. Ct. 447, 448, 72 L.Ed. 842, 844 (1928)). Thus, the validity of a legislative delegation often hinges on the relation of the contested statute or ordinance to matters properly the subject of state or municipal regulation under the police power. *Grendel’s Den*, 662 F.2d at 92. Consequently, land use restrictions, including those prescribed by the Legislature in RIGL §5-21-2, must find their justifications in the police power exerted in the interest of the public and must not impose unnecessary or unreasonable restrictions upon the “use of private property or the pursuit of useful activities.” *Roberge*, 278 U.S. at 121, 49 S. Ct. at 52, 73 L.Ed. at 213.

### *Arbitrary and Capricious*

The Ordinance, as drafted, contains a plethora of exceptions that would permit activities on a property similar to the Bill's Sales' property without any rational relationship to the issue of sound. (See attached Exhibit K). For example, the Ordinance does not apply to the emission of sound in the discharge of a firearm between 6:00AM and 9:00PM. The sound from a discharged firearm is much higher than any prohibited sound level under the Ordinance. This exception, in an arbitrary and capricious manner, permits firearm discharges without any rational basis that this sound be unregulated during the day. In addition, any person could open a lawn equipment store or shop on the Bill's Sales' property and the noise level from running that equipment would be exempt between the hours of 7:01 AM to 8:59 PM. Accordingly, it is clear that the Ordinance does not limit noise for the public welfare, rather it arbitrarily limits certain sounds and while allowing other louder sounds.

### *Unconstitutional Taking*

Our Supreme Court in Goldstein v. Zoning Board of Warwick, 101 RI 728, 227 A.2d 195 (RI 1997) at pages 730-731 stated:

"This court has had occasion in the past to point out that by its very nature zoning interferes with and restricts the rights of a property owner to devote his property to uses that would be proper at common law. *City of Providence v. Stephens*, 47 R.I. 387. Nevertheless, such interferences and restrictions will be countenance if the legislation or regulations out of which they arise constitute a valid exercise of the police powers in that they tend to promote the public health, safety, morals and general welfare. *Heffernan v. Zoning Board of Review*, 50 R.I. 26. However a limitation on the use of property which is not reasonably related to the public health, safety, morals, and general welfare is confiscation and in violation of art. XIV of amendments to the United States constitution and represents a taking of private property for public use without just compensation in violation of art. I §16 of the Rhode Island constitution."

Accordingly, RIGL §45-24-39(b) mandates that "[t]he zoning ordinance shall permit the continuation of nonconforming development; however this does not prohibit the regulation of nuisances."

Bill's Sales use of the property has been a legally permitted use since 1975. It is not asserted that reasonable limits cannot be placed on sounds emitted from the property. It is asserted, however, that unreasonable and arbitrary limits which would prevent the continuation of its business amount to an unlawful taking as Bill's Sales property is composed of extensive fixed-place wood processing equipment, unsuitable for any other use.

## CONCLUSION

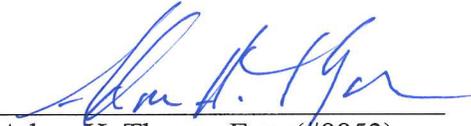
Bill's Sales Firewood is not only one of the Town's defining small businesses, it is a local landmark. It has operated the same business in the same location in effectively the same manner for over 40 years, and many of the Town's residents are not old enough to remember Portsmouth without it. It has operated successfully for decades, and grown to become a respected local employer that has contributed to the financial wellbeing of generations of Portsmouth residents.

At present, however, the business and the jobs of its 9 local employees are in jeopardy due to circumstances entirely beyond Bill's Sales' control. Despite considerable cost and financial hardship, Bill's Sales undertook substantial good-faith measures to limit its sound output in order to conform to the residential decibel limits notwithstanding the fact that it is located in the heart of Portsmouth primary commercial district.

Accordingly, Bill's Sales and its owner, Robert Lantz, respectfully request the Council to adopt the proposed amendments to the Ordinance. For in the absence of such amendments, the Ordinance as applied to Bill's Sales is arbitrary and capricious and amounts to an unconstitutional confiscation that threatens to shut the doors of one of Portsmouth's most stalwart businesses.

Respectfully submitted,

Bill's Sales Firewood  
Robert Lantz, Owner  
By His Attorney,



---

Adam H. Thayer, Esq. (#8853)  
Sayer Regan & Thayer, LLP  
130 Bellevue Avenue, Unit 2  
Newport, Rhode Island 02840  
(401) 849-3040

The emission of sound relative to the operation of yard or lawn maintenance equipment or machinery, provided such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. the following day.

**§ 257-6 Noise disturbances prohibited.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

**§ 257-7 Maximum permissible sound levels by receiving land use.**

A.

With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I  
Maximum Sound Levels by Receiving Land Use**

<b>Location of Receiving Land Use</b>	<b>Time</b>	<b>Sound Limit (dBA)</b>
Zoning district:		
Residential and Open Space	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Commercial and Waterfront	At all times	75
Light and Heavy Industrial	At all times	75
Other:		
Public water	At all times	75

B.

For any source of sound which emits a pure tone, the maximum sound-level limits set forth hereinabove shall be reduced by five dBA.

C.

Exceptions to Table I are activities covered by the following sections: §§ 257-8, 257-11, 257-12, 257-14 and 257-18.

**§ 257-8 Emergency signaling devices.**

A.

No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection B hereof.

B.

Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed or at such other time as may be permitted by the Police Department or Fire Department, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

D.

In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E.

Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F.

Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

**§ 257-19 Violations and penalties.**

A.

Violation of this chapter shall be punishable by a fine of not more than \$100 and/or imprisonment for not more than 30 days.

B.

Holders of alcoholic beverage licenses.

(1)

In addition to any other penalty set forth herein, any holder of a Class A, B, B Ltd., C or D liquor license who shall be cited for violation of the provisions of this chapter twice within a period of six months shall, upon complaint by the Police Department to the Town Council sitting as a Board of License Commissioners, be summoned to appear before the Board to show cause why disciplinary action should not be taken against said license holder for violation of state or local laws, ordinances or regulations.

(2)

The license holder shall be served with a notice of the date, time and place of any such hearing.

(3)

The license holder has the right to be present at any such hearing, to be represented by counsel if he/she so chooses, to cross-examine witnesses and to present sworn testimony on his or her own behalf.

(4)

After hearing, the Board may, if it finds that a violation has occurred, take disciplinary action against the license holder, including, but not limited to, suspension and/or revocation of the license.

B.

The provisions of this chapter which prohibit a person from making or continuing noise disturbances, or causing the same to be made or continued, across a real property boundary or within a noise sensitive area shall be enforced by the Police Department.

C.

To implement and enforce this chapter, the Police Department shall have the power to:

(1)

Conduct research, monitoring and other studies related to sound;

(2)

Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations;

(3)

Coordinate the noise control activities of all Town departments;

(4)

Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause sound in violation of this chapter;

(5)

Issue sound variances granted pursuant to § 257-18.

D.

Whenever a violation of this chapter occurs and two or more persons are present in or on the lot from which the sound emanates, and it is impossible to determine which of such persons is the violator, the owner of the lot, if present, shall be presumed responsible for the violation. In the absence of such owner, the tenant or tenants of such lot or any person present with the direct consent of the owner shall be held responsible for the violation.

E.

In the case of continuing violations, the Town Solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot.

**§ 257-17 Department actions.**

All departments and agencies of the Town shall carry out their programs in furtherance of the policies set forth in this chapter.

**§ 257-18 Sound variances.**

A.

Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B.

Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C.

All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

D.

In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

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(3)

The license holder has the right to be present at any such hearing, to be represented by counsel if he/she so chooses, to cross-examine witnesses and to present sworn testimony on his or her own behalf.

(4)





# Acoustifence®

QUIETING THE WORLD

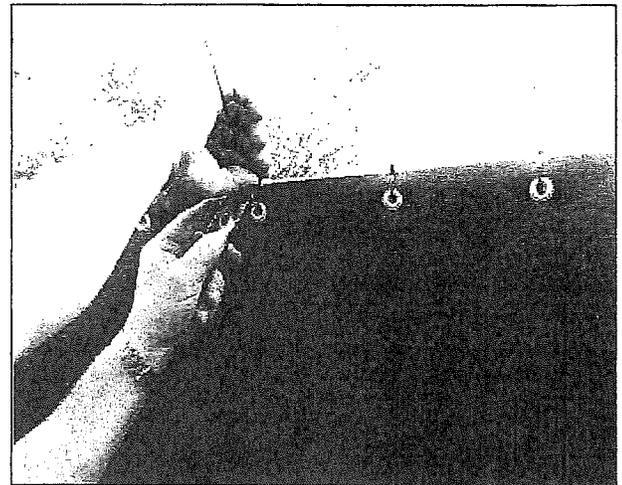


100%  
Recyclable

North American Office  
Acoustiblok, Inc.  
6900 Interbay Boulevard  
Tampa, FL 33616 USA  
Phone: 813-980-1400  
Fax: 813-549-2653  
www.acoustiblok.com  
sales@acoustiblok.com

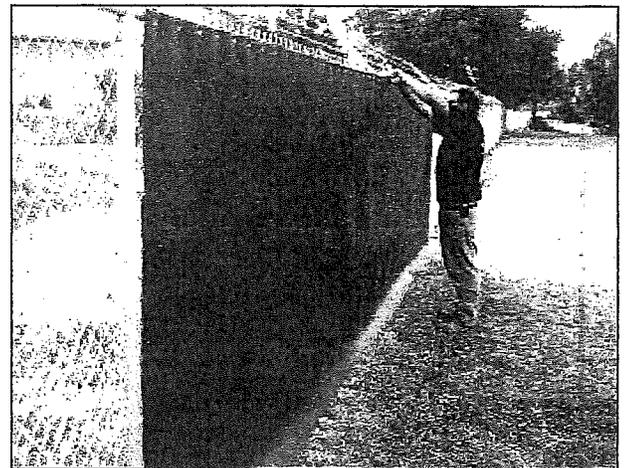
## Acoustifence® Benefits and Specifications

- The material itself is lab tested STC value of 28, which represents over an 80% reduction in sound to the human ear. (Your results will be less as sound reflects off all surrounding materials or structures, i.e., buildings, trees, etc.)
- Works extraordinarily well at blocking direct line of sight sound.
- Far less sound reflected than solid walls.
- Installed or removed in less than one hour.
- To store, Acoustifence easily rolls up like a carpet into 12 in. roll.
- UV tolerant and does not support mold.
- Virtually indestructible, very resilient material.
- 100% recyclable
- Comprised of 100% recycled materials.
- Will accept most paint finishes.
- Includes qty. 70, 11 in. heavy duty 120 lb. (black) nylon ties; stainless steel ties are available.
- Can blend in with any background using our Acoustifence-Landscapes®.



## Material Specifications – Part # “Acoustifence 6x30 Industrial”

Acoustical Rating	STC 28 / OITC 22
Size	6 ft. (1.83m) x 30 ft. (9.14m) x 0.125 in. (3mm) 180 ft <sup>2</sup> (16.72m <sup>2</sup> )
Weight	185 lbs. (84Kg)
Fastening	Black brass grommets every 6 in. (152mm) along top edge with four grommets spaced along the bottom edge. Commonly installed horizontally.
Color	Black or Forest Green
(This is an industrial product and minor surface blemishes are a possibility.)	



## Acoustifence® Basic Installation (see detailed installation sheet)

Number of people: 2

Time required: 20/30 min.

Items: Utility Knife, Pliers, 70 lb. nylon ties (included with purchase)

1. Cut and remove the plastic wrap around the roll.
2. Lean the roll against the fence as vertical as possible with the grommet edge to the top. Line up the top of the roll to the top of the fence or at the desired height.
3. Begin unrolling the Acoustifence material along the fence. Have one person slowly unroll the material while the second person inserts the ties in each grommet as the material is unrolled. Insure that the material is kept taught as you install the nylon ties to prevent it from sagging.
4. Pull each nylon tie (included in fence purchase) so that the Acoustifence is properly lined up at the desired height. DO NOT make the nylon tie tight! It must be loose enough to allow the eyelet to pivot freely. Try to distribute weight equally.
5. Very cold temperature will reduce flexibility when installing.



(Specifications and prices subject to change without notice.)

Middle East Office: Kingdom Tower, Riyadh, Kingdom of Saudi Arabia

Acoustifence Benefits and Specifications 12232011

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United Kingdom Office: acoustiblok.com

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Page 1 of 2

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**EXHIBIT F**

**Acoustifence® Acoustical Test Data**  
(Performed by an Independent Certified Test Lab)

Date: 05/25/2006

Specimen: Acoustifence Sound Barrier Material

Specimen Area: 6.0 Sq. Ft.

Filler Area: 134.0 Sq. Ft.

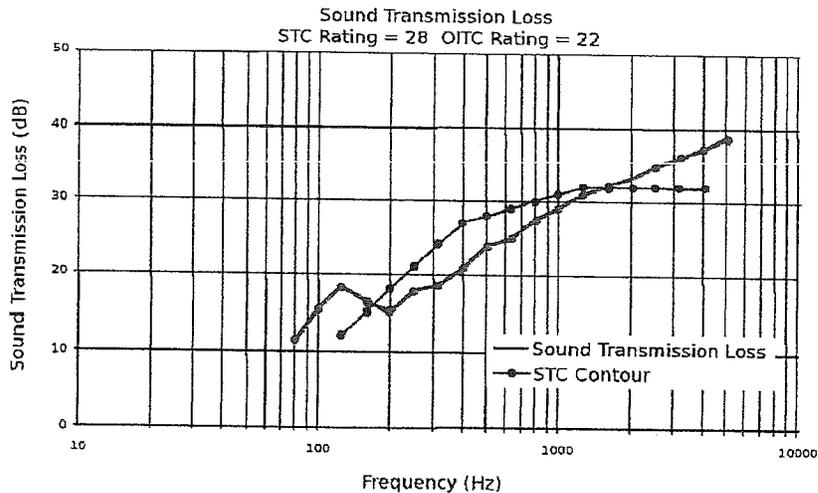
Operator: W. Green

	Bkgrd	Absorp	Source	Receive	Filler	Specimen
Temp F	73.9	74.0	73.1	73.9	73.1	73.7
R. H. %	65.7	65.7	63.3	65.7	61.4	65.1

Freq (Hz)	Bkgrd SPL (dB)	Absorp (Sabines / Sq. Ft.)	Source SPL (dB)	Receive SPL (dB)	Filler TL (dB)	Specimen TL (dB)	95% Conf Limit	No. of Deficiencies	Trans Coef Diff
80	43.0	52.5	84.2	63.7	36.3	11	2.54	0	11.7
100	39.2	59.1	87.7	62.9	40.3	15	3.77	0	12.0
125	47.4	55.9	91.5	63.7	47.5	18	2.02	0	15.9
160	43.4	50.4	94.2	68.8	46.2	16	1.06	0	16.5
200	43.0	54.9	97.9	73.5	49.6	15	0.80	3	21.3
250	35.8	53.0	99.3	72.2	51.0	18	1.12	3	19.8
315	33.7	57.2	95.7	67.5	54.0	18	0.53	6	22.1
400	33.3	56.0	95.0	64.6	58.4	21	0.78	6	24.3
500	31.6	56.3	98.8	65.4	60.5	24	0.30	4	23.4
630	25.1	57.7	101.5	66.9	65.2	25	0.53	4	26.9
800	25.2	59.9	101.3	63.8	67.4	27	0.54	3	26.4
1000	23.2	62.6	101.0	61.9	72.2	29	0.49	2	29.8
1250	23.8	69.4	105.1	63.7	78.0	31	0.28	1	33.8
1600	20.1	70.2	111.4	68.6	81.8	32	0.22	0	36.3
2000	15.0	76.3	107.4	63.2	79.9	33	0.22	0	33.2
2500	7.5	86.9	105.9	59.3	74.8	35	0.23	0	26.3
3150	8.4	102.0	106.6	58.0	77.8	36	0.33	0	28.0
4000	7.7	124.9	105.6	55.0	81.1	37	0.33	0	30.2
5000	8.1	162.8	104.1	51.0	81.0	39	0.36	0	28.7

STC Rating = 28 (Sound Transmission Class)

Deficiencies = 32 (Number of deficiencies versus contour curve)



Specifications subject to change without notice.

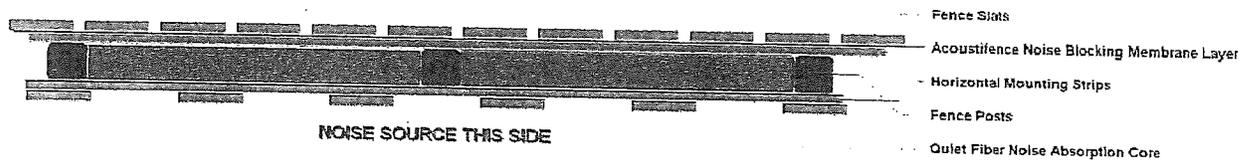
## Acoustifence

Acoustifence is a limp mass, line of sight outdoor acoustical barrier designed to hang on an existing chain link fence or be incorporated into a wooden fence to dramatically increase the STC (Sound Transmission Class) of the barrier. STC is a rating of how much sound transmits through a barrier. Acoustifence attenuates more sound than the same weight of lead and is very easy to install. It is UV resistant, will not mold or mildew and is paintable. Your results will vary depending on surrounding objects that will reflect some sound over the line of sight. Distance will also be a factor. Call us for a free consultation.

### Creating an absorption barrier

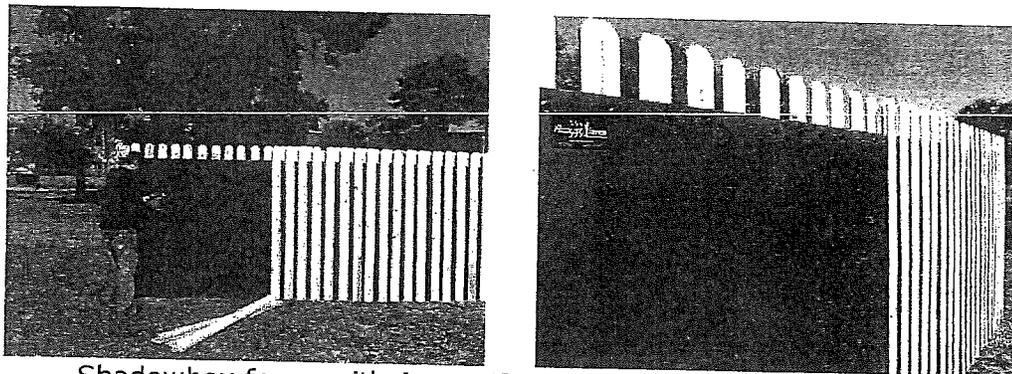
**Acoustifence & Quietfiber** – You can create an absorption barrier by incorporating Acoustifence and Quietfiber into a wooden fence. Absorption barriers are needed around residential noise sources such as AC Units, Heat Pumps, Generators, compressors etc.

#### **WOODEN PRIVACY FENCE w/ ACOUSTIFENCE & QUIET FIBER**

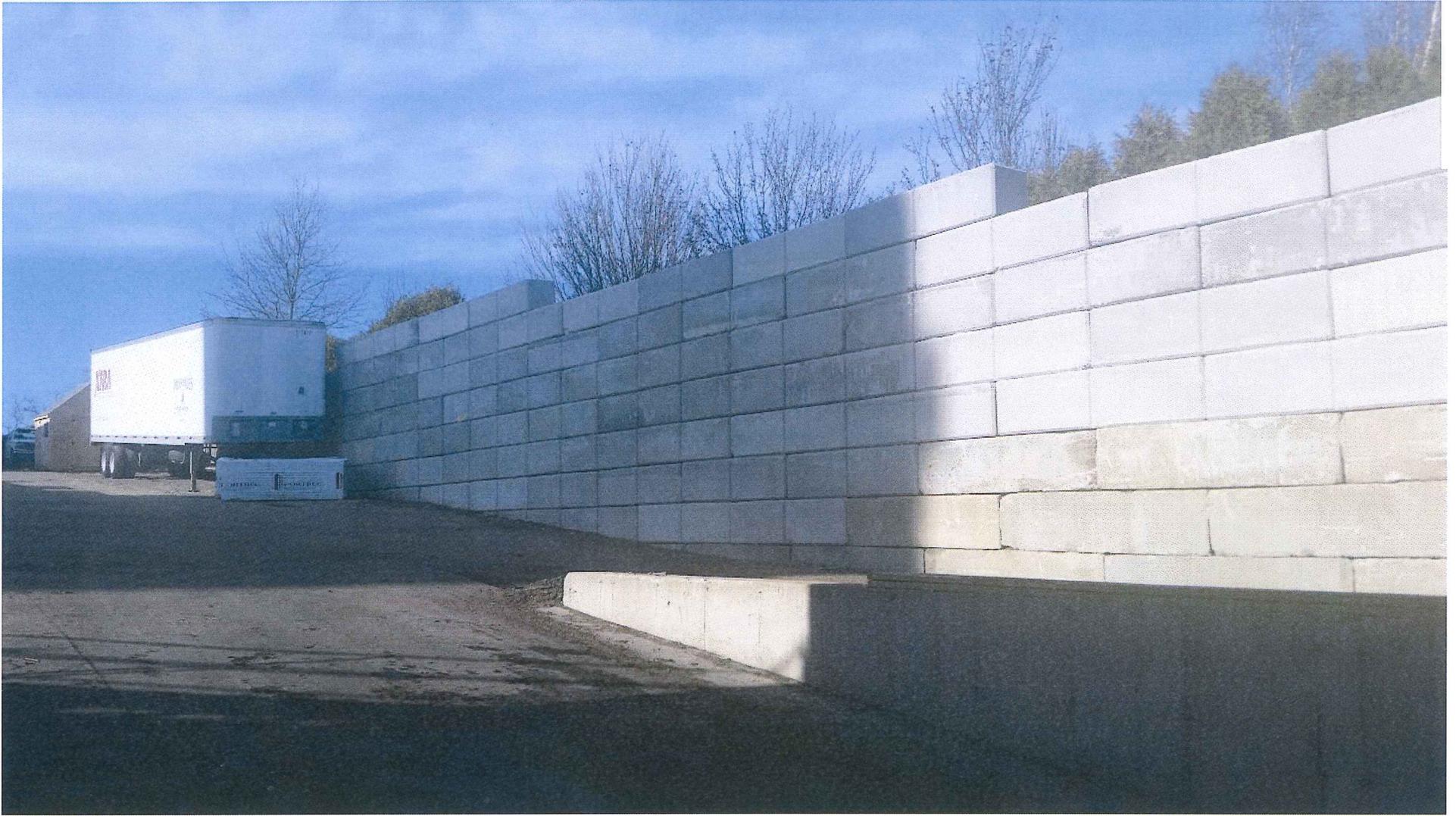


### Creating a reflective acoustical barrier

**Acoustifence** – Adding Acoustifence to a wooden fence will dramatically increase the sound transmission loss through the fence and create a reflective barrier.



Shadowbox fence with Acoustifence added – reflective barrier.



**Amendment of Ordinance  
Chapter 257 of the Portsmouth Town Code Noise Ordinance  
Is hereby amended as follows:**

**§257-18. Sound variances.**

A. Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B. Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C. 1. All applications shall be accompanied by an application fee in an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

2. If a temporary variance is granted, the fee shall be \$50 per day.

3. For any business whose operation is at a fixed location, if a variance is granted, the annual fee shall be Five Hundred (\$500) dollars.

D. In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

**Section 257-5 Exceptions** is amended by adding the following:

L. Any other provision of this Ordinance notwithstanding, any commercial use existing prior to the adoption of Ordinance No 91-8-5 on August 5, 1991 shall have the right to continue operating up to 75 dba between the hours of 7:00 AM to 6:00 PM, and this chapter shall not apply to all sounds of 75 dba or less that are transmitted beyond its property line during the aforesaid hours.



# LOUDNESS COMPARISON CHART (dBA)

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
Jet Fly-over at 1000 ft	110	Rock Band
Gas Lawn Mower at 3 ft	100	
	90	Food Blender at 3 ft
Diesel Truck at 50 ft at 50 mph	80	Garbage Disposal at 3 ft
Noisy Urban Area, Daytime		Vacuum Cleaner at 10 ft
Gas Lawn Mower at 100 ft	70	Normal Speech at 3 ft
Commercial Area		
Heavy Traffic at 300 ft	60	Large Business Office
Quiet Urban, Daytime	50	Dishwasher Next Room
Quiet Urban, Nighttime		
Quiet Suburban, Nighttime	40	Theater, Large Conference Room (Background)
		Library
Quiet Rural, Nighttime	30	Bedroom at Night, Concert Hall (Background)
	20	Broadcast/Recording Studio
	10	
Lowest Threshold of Human Hearing	0	Lowest Threshold of Human Hearing

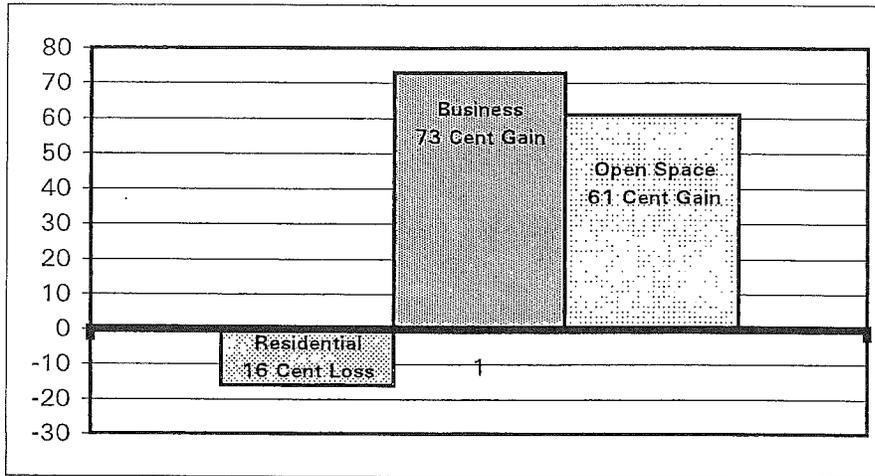
An increase of 3 dBA is barely perceptible to the human ear.



**B. CURRENT NEED FOR ECONOMIC DEVELOPMENT**

Beside the obvious need for residents to have gainful employment and a reasonable standard of living, non-residential development (including maintenance of farms and open space) is needed to offset the costs of residential development, so that the Town may provide quality services at a reasonable “price” (tax rate). As detailed in a Cost of Community Services <sup>5</sup> study done for Portsmouth in 1997, the average housing unit costs the Town \$1.16 for every \$1.00 of total revenue. Open space and non-residential development contribute more to Town revenue than they cost.

Figure 18 - Gain/Loss per Dollar Town Government Revenue



Therefore, the result of residential development outpacing non-residential development is higher property taxes. From 1990 to 2000, Figure 16 shows the dramatic Commercial & Industrial revenues declined from 17% to 11% of total tax base. <sup>6</sup> This is not due to a loss of jobs; it is due to the rapidly expanding residential tax base and the relatively stagnant commercial tax base.

<sup>5</sup> “The Cost of Community Services in Portsmouth, Rhode Island”; Johnson, Dr. Robert J.; 1997 Aquidneck Island Partnership.

<sup>6</sup> Source of tables and graphs in this section: Portsmouth Economic Development Committee report, September 1999, as amended November 2000. Data source: Portsmouth Tax assessor records for year ending December 31, 1998 and 2000.

The Town of Portsmouth, Rhode Island, or the area within the territorial limits of the Town, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of ownership or any constitutional or Charter provision or any law.

USED AND OCCUPIED

Include the words "intended, designed or arranged to be" (used or occupied).

WATERCRAFT

Any contrivance used, or capable of being used, as a means of transportation or recreation on water.

ZONING DISTRICTS

Those districts established in the Zoning Ordinance and indicated on the Official Zoning Map or in the Zoning Ordinance.[1]

[1]

Editor's Note: See Ch. 405, Zoning.

**§ 257-5 Exceptions.**

The provisions of this chapter shall not apply to:

A.

The emission of sound for the purpose of alerting persons to the existence of an emergency;

B.

The emission of sound in the performance of emergency work;

C.

Noncommercial public speaking and public assembly activities conducted on any private property, public space or public right-of-way, except those activities controlled by § 257-11;

D.

The unamplified human voice, except those activities controlled by § 257-9;

E.

Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;

F.

The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty;

G.

The emission of sound in the discharge of weapons between 6:00 a.m. and 9:00 p.m.;

H.

The emission of sound in the discharge of fireworks displays licensed by the Town between the hours of 9:30 p.m. and 10:00 p.m. only, except with special permission granted by the Town Council;

[Amended 7-9-2007 by Ord. No. 2007-07-09]

I.

The emission of sound in the operation of snow removal equipment;

J.

The emission of sound relative to permitted construction and demolition activities, provided that such activities do not occur between 9:00 p.m. and 7:00 a.m.; and

K.

The emission of sound relative to the operation of yard or lawn maintenance equipment or machinery, provided such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. the following day.

**§ 257-6 Noise disturbances prohibited.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

**§ 257-7 Maximum permissible sound levels by receiving land use.**

A.

With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I  
Maximum Sound Levels by Receiving Land Use**

<b>Location of Receiving Land Use</b>	<b>Time</b>	<b>Sound Limit (dBA)</b>
Zoning district:		
Residential and Open Space	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Commercial and Waterfront	At all times	75
Light and Heavy Industrial	At all times	75
Other:		
Public water	At all times	75

B.

For any source of sound which emits a pure tone, the maximum sound-level limits set forth hereinabove shall be reduced by five dBA.

C.

Exceptions to Table I are activities covered by the following sections: §§ 257-8, 257-11, 257-12, 257-14 and 257-18.

**§ 257-8 Emergency signaling devices.**

A.

No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection B hereof.

B.

Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed or at such other time as may be permitted by the Police Department or Fire Department, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

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## PETITIONER'S MEMORANDUM

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**TO:** PORTSMOUTH TOWN COUNCIL

**FROM:** BILL'S SALES FIREWOOD, OWNER- ROBERT LANTZ  
By: Adam H. Thayer, Esq.

**SUBJECT:** PROPOSED AMENDMENTS TO CHAPTER 257 OF THE PORTSMOUTH TOWN CODE-NOISE ORDINANCE

**DATE:** FEBRUARY 2, 2016

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### ISSUE

In 1980, the Town rezoned Map 41, including the Bill's Sales property, from commercial to residential. In 1991, the Town passed the Noise Ordinance, which limited the sound levels at the property line of any residential property to 65 dBA during the day. Despite rezoning portions of Map 41 back to commercial, Lot 52 (the Waring property) remains zoned residential. Accordingly, despite being a pre-existing commercial use for 40 years, along a very noisy state highway, Bill's Sales is limited to the residential noise limit at a portion of the northerly boundary of its property. Notwithstanding unduly burdensome, good faith efforts to reduce the sound emanating from its business, Bill's Sales is unable to entirely reduce its sound below the 65 dBA residential limit during daytime hours.

### RELIEF REQUESTED

The Noise Ordinance, Section §257-18 provides for a variance procedure (See attached Exhibit A). Pursuant to said Section, for any variance granted the fee shall be \$50 per day. For any person or business seeking an annual variance this would constitute a yearly fee of \$18,250 payable to the Town. This amount is arbitrary, capricious and constitutes an undue hardship. Indeed, many of the municipalities in the state do not have any fees for variances to their noise ordinances, per diem or otherwise.

Accordingly, the Petitioner requests the Council to amend the Noise Ordinance to provide for an equitable fee for variances to the Noise Ordinance.

## ZONING HISTORY

In 1965, Portsmouth adopted its first Zoning Ordinance. The 1965 Ordinance established the "General Business District", which ran along both sides of East Main Road to a depth of 500 feet from the centerline of the street.

In 1975, Bill's Sales Firewood opened, selling firewood and wood products at 1960 East Main Road (Map 41, Lot 48). The entirety of the business was located within the 500 foot General Business District.

In 1980, the Zoning Ordinance was re-written, and completely superseded the 1965 Ordinance and the zoning districts established therein. Pursuant to the 1980 Ordinance, all parcels in the town were designated in one of four Residential Districts, except those parcels specifically listed by plat and lot as being in either Heavy Industry, Commercial, Light Industry or Open Space. No parcels on Bill's Sales' Map (Map 41) were designated to any of the aforementioned categories. Accordingly, Bill's Sales' property, and all of the other properties located in Map 41 were zoned residential by default.

There were, and remain to this day, several parcels across the street from Bill's Sales, located on Map 42, which were zoned Commercial.

A provision of the 1980 Ordinance allowed Bill's Sales to continue to operate its non-conforming commercial use on its residentially zoned property by right, as long as the use was not abandoned. The use has never been abandoned.

In 1991, the Town Council adopted the Noise Ordinance, which limited "Sound Levels by Receiving Land use (Zoning District)" to 65 dBA during the day, and 55 dBA during nighttime hours, at the boundary of any lot in a residential district.

In 1994, the Zoning Ordinance was again re-written, and completely superseded the 1980 Ordinance and the zoning districts established therein. In the 1994 Ordinance, all parcels on Bill's Sales' Map (Map 41) continued to be zoned residential until November of 1999, when the Town Council rezoned Map 41, Lot 29 to commercial. Again, the 1994 Ordinance allowed Bill's Sales to continue to operate its non-conforming commercial use on its residentially zoned property by right, as long as the use was not abandoned.

In 2008, the Town Council amended the 1994 Ordinance to change the zoning designation of Map 41, Lot 48 (the Bill's Sales property) and Lot 29A, and a portion of Lot 51 from residential to commercial. The amendment included conditions placed on the Bill's Sales property addressing fencing, hours of operation, lighting restrictions and outside storage. Most noteworthy is the fact that none of the conditions listed in the 2008 change addressed noise levels emanating from Bill's Sales. Further, this change was recommended by the Planning Board and "wholeheartedly supported" by William E. Clark, the Town's Director of Business Development. (See attached documents related to this change as Exhibit B.)

In April 2010, Bill's Sales petitioned the Zoning Board of Review for a Special Use Permit to construct an approximately 7,900 square foot building and to demolish smaller buildings on the property, for the purpose of moving a major portion of their operations indoors. In a Zoning Certificate issued by zoning official, Mr. Medeiros stated that to the best of his knowledge, the property was in compliance with all applicable provisions and conditions of the zoning ordinance. Accordingly, the Board unanimously granted the petition with several conditions placed on the permit addressing the design of the building, signage, landscaping and lighting. Again, it is worth noting that none of the conditions placed on the property in association with the Permit addressed noise levels. (See attached Exhibit C for documentation related to the Zoning Decision).

### **BILL'S SALES FIREWOOD**

Despite growing its business over the past 40 years, Bill's Sales has consistently reduced its noise output. In years past, both prior to and after the passing of the Noise Ordinance, Bill's Sales utilized chain saws to cut its firewood. Pursuant to OSHA, chain saws operate up to 125 dBA.<sup>1</sup> At present the business utilizes modern equipment, rather than chain saws, and moved said equipment indoors in 2010, drastically reducing its sound output.

In addition, over the past year, Bill's Sales has taken numerous additional measures to decrease its sound output, at considerable expense (See attached Exhibit D for photos and additional information). They are as follows:

1. It discontinued the use of a large Green Spinner/Loader and moved the machine to the other side of the lot to be as far from the abutting residential property as possible.
2. Bill's Sales also completely removed its loading dock for the kiln dried firewood. This loading dock was critical to the loading of firewood bins, and as a result the business now loads them from the ground with added difficulty.
3. Bill's Sales also redesigned its skid steer so that the kiln dried bins will not rattle while being moved around the property. Specifically, they installed a hydraulic arm that grabs the baskets firmly, thereby eliminating much of the noise.
4. They installed a 10 foot fence and affixed it with Acoustifence, a noise barrier material, to the exterior catwalk to help reduce the sounds of logs being moved onto the trough and into the building.
5. Bill's Sales has also constructed a large 14 foot tall cement wall along the northerly property line abutting the residential property, composed of 2'x 2'x 8' blocks. They also positioned a trailer along the property line.

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<sup>1</sup> <https://www.osha.gov/archive/oshinfo/priorities/noise.html>

6. They added a hood to the exhaust fan for the kiln facing away from the residential property and added an electronic dimmer switch to slow the fan's speed to decrease its sound output.

As a result of these concerted, good-faith efforts, Bill's Sales has drastically reduced the sound output of its business. On January 7, 8 and 9, at five locations along the northerly boundary line of Bill's Sales property sound measurements were performed. (See attached Exhibit E).

Here are the averages of those measurements:

Location 1: Property Line with East Main Road

**77.44**

Location 2: Property Line with Lot 29A

**63.58**

Location 3: Property Line with Lot 29A

**61.28**

Location 3A: Property Line with Waring Property/ Lot 52

**54.03**

Location 4: Property Line with Waring Property/Lot 52

**66.66**

Location 5: Property Line with Lot 51

**59.26**

Location 6: Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4

**61.58**

As can be seen from these readings, the average dBA along the Bill's Sales/Waring property line was 60.35. Further, the average reading along said property line during non-business hours was 45.88 dBA (discrediting Mr. Waring's assertion that the kiln fan produces a constant sound in violation of the Noise Ordinance).

Particularly telling are the readings from Saturday, January 9, 2016, taken while the business was loading baskets of firewood. From 9:26-9:31 AM, baskets were loaded and readings were taken at locations 3 and 3A. Location 3, east of the Bill's Sales/Waring property line (closer

to East Main Road), and without the benefit of the cement wall, registered an average reading of 77.9 dBA. Location 3A, along the Bill's Sales/Waring property line, and with the benefit of said concrete wall registered an average reading of 62.9 dBA.

Accordingly, it is readily apparent that the noise reduction measures taken by Bill's Sales have been highly effective at reducing the sound being transmitted over the residential property line. Nevertheless, the reading at 9:31 AM at Location 3A was 69.5 dBA, which would constitute a violation of the Noise Ordinance.

### ARGUMENT

Bill's Sales is not seeking any variance to the Noise Ordinance for nighttime sound limits. Rather, it is seeking a variance to the residential limit of 65 dBA only during normal business hours. As detailed herein, the ambient noise from passing traffic both at the property, and throughout Town along East and West Main Roads, is well in excess of the residential noise limit and the average operating sound levels of Bill's Sales. Accordingly, a reasonable variance granted to Bill's Sales will not harm any abutting property owners.

#### Variance Procedure

##### *Unreasonable Hardship and Equitable Resolution*

Pursuant to §257-18 of the Noise Ordinance, an applicant for a variance shall file an application with the Town Council. "The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant."

The goal of the variance procedure in §257-18 of the Noise Ordinance is to provide equitable resolutions to such hardships. Specifically, §257-18(D) states as follows:

"In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community, and other persons, if the sound variance is not allowed, against the adverse impact on the health safety and welfare of the persons affected, the adverse impact on property affected, and any other impact, if the sound variance is allowed."

#### **1. Hardship to the Applicant if Variance is Denied:**

Bill's Sales has operated the same legal business at the location for over 40 years. It has expended millions of dollars to build its business and cement its foundations in the Town. However, through no action or inaction of the business, its decibel limits was reduced to 65 dBA due to the poor planning and haphazard zoning along East Main Road's primary commercial district. This is not a self-created hardship, but rather one that has been inflicted on the business by the Town.

Nevertheless, Bill's Sales has recently poured tens of thousands of dollars and hundreds of man hours into reducing its noise limits. As can be seen by the attached sound readings, these good faith efforts have been largely successful. However, as detailed herein, forcing the business to completely reduce its daytime operating sound limits below the 65 dBA residential limit would be a further unreasonable hardship.

**2. Hardship to the Community if the Variance is Denied:**

Bill's Sales Firewood is not only one of the Town's defining small businesses, it is a local landmark. It has operated successfully for decades, and grown to become a respected local employer that has contributed to the financial wellbeing of generations of Portsmouth residents. Please see attached Exhibit F for Petitions signed by both Portsmouth residents and residents of the surrounding communities voicing their support for the business' pursuit of a variance.

The Portsmouth's Comprehensive Town Plan advises that the Town should proceed in a manner "consistent with the character of the existing land uses and with the established community goals" including "economic development." (Land Use §I, A, 1). The Plan states that the Town should strive to maintain the balance of nonresidential and residential taxes bases to ensure the Town can successfully deliver services over the long term. (See Land Use §IV, B, 5). This is crucial for the continued success and prosperity of the Town and its residents as "[b]usiness and industry does not demand as much in services as they pay in taxes." (Economic Development §IV, A, 4).

Figure 18 from the Plan, details the Gain/Loss per Dollar Town Government Revenue. (See Economic Development §IV, B and attached Exhibit G). As Figure 18 details, the Town loses approximately 16 cents per dollar collected from residential properties, but gains approximately 73 cents per dollar collected from commercial properties. In addition, the Plan opines that "[a]ny business type has a multiplier effect, such as related businesses generation and spin-off effects, like the ability of Town residents to pay their taxes and patronize consumer-related business." (Economic Development §IV, A, 4). Accordingly, the Plan advises "[a] continuing effort to increase the number of [ ] jobs that fit the Town's character and the skills of its labor force cannot be ignored." (Economic Development §IV, B). The Plan details the roles each layer of government should play toward that end, and states that as a municipality the "[t]own should take the initiative in attracting new business and in helping existing business." (Economic Development §IV, 3, a).

This sentiment was echoed in the Plan by a survey conducted by the Portsmouth Citizen Advisory Committee which concluded that "[o]ver 82% [of respondents] strongly agreed that Town officials should guide economic development efforts to sustain growth in employment and the tax base by encouraging industry and commerce whose impact on the environment and character of the Town are 'within acceptable limits'." (See Economic Development §IV, E)

Accordingly, if the variance is not granted, Portsmouth will likely lose a foundational business in Town, which not only offers quality goods and services to great number of its

residents, but also contributes to the Town's financial well-being through payment of municipal taxes.

### 3. **Adverse Impact on the Health, Safety and Welfare of Persons Affected**

At the prior Council hearing, a procession of abutters and Portsmouth residents voiced their strong support for Bill's Sales. The Portsmouth Water and Fire District, which abuts Bill's Sales to the south, and without the benefit of the sound barrier fence, concrete wall, and stockade fence, has also written a letter in full support (See attached Exhibit H). The only person who has voiced opposition to Bill's Sales has been Mr. Waring.

In Mr. Waring's "Objection Comment" filed with the Town on December 7, 2015, and during his testimony before the Council on December 14, 2015, he made a series of false allegations and pursued lines of argument wholly irrelevant to the variance. First, Mr. Waring alleged that issues with the business began in 2010 after it had been zoned commercial for only 2 years. Bill's Sales was zoned commercial in 1975, and was a legal nonconforming use by right through 2008, when it was correctly rezoned commercial.

Second, Mr. Waring testified that there are ongoing issues with constant sounds, including nighttime noise, from the fan on the kiln used to dry the wood. This is simply incorrect. As our readings show, and as Mr. Waring eventually admitted, the sound emitted by the fan is well below residential limits, and does not even violate the 55 dBA nighttime limit.

Mr. Waring has claimed that the business has expanded and is not of the same character as when he purchased his property. Specifically, he states that the business expanded in 2012 and increased its noise output. As the owners of Bill's Sales testified at the December 14, 2015 hearing, the exact same equipment has been in use for many years. The only difference that occurred around 2012 was the construction of the current structure at the property which allowed the wood cutting and the equipment to be moved indoors. Although we do not have the benefit of sound reading immediately before and after that change, logic would dictate that the same activity would be less noisy to abutters when conducted indoors.

Similarly, Mr. Waring has alleged that the noise emitted by Bill's Sales has destroyed the peace and quiet he expected when he bought his property, and allegedly enjoyed until 2012. As detailed above, the average sound reading along East Main Road in front of the Bill's Sales and Waring properties was 77.44 dBA. This average is in excess of even the commercial noise limit. Although high, this noise level is typical for properties abutting the main thoroughfares in Town.

Comparative sound readings were also conducted at eight points along East Main Road and West Main Road:<sup>2</sup>

1) Morning

- A) 180 East Main Road.....Average 73 dBA
- B) 1322 East Main Road.....Average 72.8 dBA
- C) 2211 East Main Road.....Average 71.7 dBA
- D) Sea Fare Residences.....Average 69.5 dBA
- E) 739 West Main Road.....Average 68.8 dBA
- F) 1569 West Main Road.....Average 70.8 dBA
- G) 2221 West Main Road.....Average 71.5 dBA

2) Afternoon

- A) 180 East Main Road.....Average 70.9 dBA
- B) 1322 East Main Road.....Average 72.2 dBA
- C) 2211 East Main Road.....Average 72.3 dBA
- D) Sea Fare Residences.....Average 72 dBA
- E) 739 West Main Road.....Average 69.7 dBA
- F) 1569 West Main Road.....Average 71 dBA
- G) 2221 West Main Road.....Average 70.6 dBA

It is therefore clear that most residential properties along East and West Main Roads are subjected to constant noise levels well in excess of the residential limit. Accordingly, Mr. Waring's expectation of a noise limit on his property of 65 dBA during daytime hours was not and is not reasonable. Nevertheless, the daytime average noise level at the Bill's Sales/Waring property line is significantly less than any of these numbers, at 60.35 dBA.

Accordingly, it is clear that the granting of a variance for Bill's Sales will not have any adverse impact on the health, safety or welfare of persons affected, including Mr. Waring.

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<sup>2</sup> Approximately 15-20 readings were taken at each location between the hours of 8:00 AM – 3:00 PM and averaged.

*Application Fee*

The Noise Ordinance states that "all applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source." Accordingly, if the Town Council were to grant Bill's Sales a variance, it would cost the business \$18,250 per year. This sum is arbitrary and capricious, and would itself constitute a further undue hardship on the business, or anyone else seeking a variance.

**CONCLUSION**

It is clear that Bill's Sales is deserving of an opportunity to for a public hearing before the Town Council for an application for a variance to the Noise Ordinance. It is also clear that should that variance be granted, a fee of \$18,250 is inequitable and unjustifiable.

Accordingly, the Bill's Sales would ask the Town Council to amend the noise ordinance to reflect a fair annual fee, and allow them to present their case at a public hearing for a variance during daytime business hours.

Respectfully submitted,

Bill's Sales Firewood  
Robert Lantz, Owner  
By His Attorney,



Adam H. Thayer, Esq. (#8853)  
Sayer Regan & Thayer, LLP  
130 Bellevue Avenue, Unit 2  
Newport, Rhode Island 02840  
(401) 849-3040

## Exhibit List

A- Noise Ordinance

B- 2008 Zoning Amendment

C- 2010 Zoning Decision

D- Sound Remediation Efforts

E- Sound Measurements

F- Petition

G- Gain/Loss per Dollars Town Government Revenue

H- Letter in Support from Portsmouth Water and Fire District

The emission of sound relative to the operation of yard or lawn maintenance equipment or machinery, provided such activities do not occur between the hours of 9:00 p.m. and 7:00 a.m. the following day.

**§ 257-6 Noise disturbances prohibited.**

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

**§ 257-7 Maximum permissible sound levels by receiving land use.**

**A.**

With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I  
Maximum Sound Levels by Receiving Land Use**

<b>Location of Receiving Land Use</b>	<b>Time</b>	<b>Sound Limit (dBA)</b>
<b>Zoning district:</b>		
Residential and Open Space	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Commercial and Waterfront	At all times	75
Light and Heavy Industrial	At all times	75
<b>Other:</b>		
Public water	At all times	75

**B.**

For any source of sound which emits a pure tone, the maximum sound-level limits set forth hereinabove shall be reduced by five dBA.

**C.**

Exceptions to Table I are activities covered by the following sections: §§ 257-8, 257-11, 257-12, 257-14 and 257-18.

**§ 257-8 Emergency signaling devices.**

**A.**

No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection B hereof.

**B.**

Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed or at such other time as may be permitted by the Police Department or Fire Department, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

D.

In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E.

Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F.

Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

**§ 257-19 Violations and penalties.**

A.

Violation of this chapter shall be punishable by a fine of not more than \$100 and/or imprisonment for not more than 30 days.

B.

Holders of alcoholic beverage licenses.

(1)

In addition to any other penalty set forth herein, any holder of a Class A, B, B Ltd., C or D liquor license who shall be cited for violation of the provisions of this chapter twice within a period of six months shall, upon complaint by the Police Department to the Town Council sitting as a Board of License Commissioners, be summoned to appear before the Board to show cause why disciplinary action should not be taken against said license holder for violation of state or local laws, ordinances or regulations.

(2)

The license holder shall be served with a notice of the date, time and place of any such hearing.

(3)

The license holder has the right to be present at any such hearing, to be represented by counsel if he/she so chooses, to cross-examine witnesses and to present sworn testimony on his or her own behalf.

(4)

B.

The provisions of this chapter which prohibit a person from making or continuing noise disturbances, or causing the same to be made or continued, across a real property boundary or within a noise sensitive area shall be enforced by the Police Department.

C.

To implement and enforce this chapter, the Police Department shall have the power to:

(1)

Conduct research, monitoring and other studies related to sound;

(2)

Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations;

(3)

Coordinate the noise control activities of all Town departments;

(4)

Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause sound in violation of this chapter;

(5)

Issue sound variances granted pursuant to § 257-18.

D.

Whenever a violation of this chapter occurs and two or more persons are present in or on the lot from which the sound emanates, and it is impossible to determine which of such persons is the violator, the owner of the lot, if present, shall be presumed responsible for the violation. In the absence of such owner, the tenant or tenants of such lot or any person present with the direct consent of the owner shall be held responsible for the violation.

E.

In the case of continuing violations, the Town Solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot.

**§ 257-17 Department actions.**

All departments and agencies of the Town shall carry out their programs in furtherance of the policies set forth in this chapter.

**§ 257-18 Sound variances.**

A.

Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B.

Any person seeking a sound variance under this section shall file an application with Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C.

All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

D.

In determining whether to grant or deny an application, or revoke a variance previously granted, Council shall balance the hardship to the applicant, the community and other persons, if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

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(1)

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(2)

The license holder shall be served with a notice of the date, time and place of any such hearing.

(3)

The license holder has the right to be present at any such hearing, to be represented by counsel if he/she so chooses, to cross-examine witnesses and to present sworn testimony on his or her own behalf.

(4)

**TOWN OF PORTSMOUTH, RI  
ZONING ORDINANCE AMENDMENT**

**#2008-05-07 A**

An Ordinance in Amendment to the Zoning Ordinance adopted effective July 1, 1994:

Be it ordained by the Town Council of the Town of Portsmouth as follows:

Section 1: "the Zoning Ordinance of the Town of Portsmouth, as amended, effective July 1, 1994, is hereby further amended as follows:

1. Article III, Section B4 is hereby amended to remove Lot 29A and Lot 48 in their entirety and the southerly 96 foot portion of Lot 51 on Map 41 from the designation of Residential and said Lot 29A and Lot 48, in their entirety, and the southerly 96 foot portion of Lot 51 on Map 41 shall hereafter be designated as Commercial subject to the following conditions:

The owner(s) of Lot 48 and Lot 51 on Map 41, including their successors and assigns, shall:

- a. Erect an 8 foot high opaque fence along the northerly boundary of said Lot 48, which boundary is common with the southerly boundary of Lot 52. Said fence shall continue in a westerly direction until it meets an existing shed on Lot 51. Furthermore, an existing 6 foot fence shall remain and continue to be maintained by the owner(s) of said Lot 48 and Lot 51.
- b. The firewood processor used in the existing commercial business located on Lot 48 shall not be operated before 9:00AM on Saturday mornings from May 1<sup>st</sup> to September 1<sup>st</sup> and shall not be operated before 8:00AM in the morning on the Saturdays of the remaining calendar year.
- c. The owner(s) of said Lot 48 and Lot 51 shall not install any new exterior lighting higher than 20 feet, which, if installed, shall be shielded and directed downward to illuminate the subject premises and not the adjacent neighborhood properties.
- d. The southerly 96 foot portion of Lot 51 shall be utilized only as storage accessory to the existing business presently known and being operated as Bill's Sales. Said accessory storage shall not be over 8 feet high, however, it may also allow limited parking of vehicles as it is presently utilized. If the present business operated and known as Bill's Sales shall cease, then said

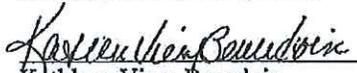
Bk: 1395 Ps: 308  
INST: 00093417

southerly 96 foot portion of Lot 51 shall be re-designated as Residential, rather than Commercial.

The owner(s) of Lot 29A, Map 41, including their successors and assigns, shall:

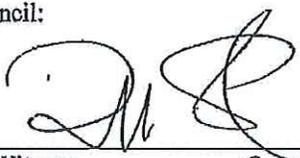
- a. Not install any new exterior lighting higher than 20 feet, which shall be shielded and directed downward to illuminate the subject premises and not the adjacent neighborhood properties.
  - b. Not allow the premises to be used for the sale of food, tobacco, alcohol, milk or gasoline.
  - c. Vehicles towed to lot 29A between 9:00 pm and 7:00 a.m. will be initially stored in the building or on the east and north sides thereof and not in the rear storage area, except in cases of emergency requiring storage in the rear storage area.
  - d. That test driving of cars or other vehicles on Crossings Court shall be prohibited.
  - e. Any additional curb cut onto Crossing Court from lot 29A shall require agreement of the owners of Lots 52 and 49 or permission of the Portsmouth Zoning Board of Review.
  - f. That the owner(s) of Lot 29A and Lot 52 shall agree upon the name of a professional land surveyor who shall locate the common boundary line between Lot 29A and Lot 52. And once located, if the existing fence has to be moved to comply with the common boundary line as so located, then the owner(s) of Lot 29A shall pay the expense of moving and relocating the existing fence to comply with the newly located common boundary line.
  - g. That the owner(s) of Lot 29A shall pay to the owner(s) of Lot 52 the sum of \$1,500.00, to be used in their discretion for additional landscaping along said common boundary line area.
2. Subject to the aforementioned conditions, the boundaries of the Zoning Ordinance as shown on the Zoning Map entitled "Town of Portsmouth Official Zoning Map," dated December 1991, and filed with the Town Clerk, hereinafter called 'Zoning Map', are hereby amended, and said Zoning Map is hereby modified to provide that Lot 29A and Lot 48, in their entirety, and the southerly 96 foot portion of Lot 51 on Map 41, as presently constituted, are hereby designated as Commercial.

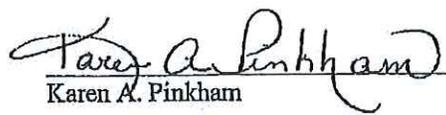
APPROVED BY TOWN COUNCIL  
ACTION ON MAY 7, 2008.

  
Kathleen Viera Beaudoin,  
Town Clerk

Approved for submittal to the Portsmouth Town Council:

  
Richard J. Pinkham

  
Witness

  
Karen A. Pinkham

  
Witness

Date 5/27/09 5-27-09

GRANTORS:  
J & B Realty, LLC  
c/o Jonathan Taggart  
  
Robert A. Lantz  
Morgan A. Lantz

GRANTEES:  
Richard J. Pinkham  
Karen A. Pinkham

RECEIVED  
PORTSMOUTH, RI  
Sep 14, 2009 02:37:01P  
KATHLEEN VIERA BEAUDOIN  
TOWN CLERK



## Town of Portsmouth

2200 East Main Road / Portsmouth, Rhode Island 02871  
www.portsmouthri.com

**William E. Clark**  
Director of Business Development

Office: (401) 643-0382  
Fax: (401) 683-6804  
email: wclark@portsmouthri.com

March 18, 2008

Honorable Portsmouth Town Council  
Dennis M. Canario, President

**Re: EAST MAIN ROAD REZONING HEARING**

In the event I am unable to attend the zoning hearing on March 24, I wish to express my wholehearted support for the change in zoning of the Buddemeyer and Lantz properties from Residential (R-20) to Commercial (C).

As you are aware, these existing commercial businesses operate on property that has historically been designated residential. Being a grandfathered pre-existing use allows the commercial activity to continue. However, the residential zoning designation places restrictions on the property as well as the business. Restrictions and cumbersome compliances that are not imposed on other Portsmouth businesses located in commercial zones. The existing businesses are confined to only the current activity and do not enjoy the luxury of changing, altering or expanding to similar commercial uses granted by the Portsmouth Zoning Ordinance.

Not only does this place a restriction on the business, it places a very narrow use of the property for other purposes. The residential designation amounts to a title restriction on the property and severely limits the value of the property. The properties have little to no value as residential house lots. With the existing uses, and being located on East Main Road, the highest and best use of the properties is for commercial uses; yet the lots can not be sold or financed as commercial property.

This request is the same as the positive action the Council took on changing the three lots on West Main Road on February 11, 2008. The change in zoning is for the best interests of the businesses, the property owners and the Town.

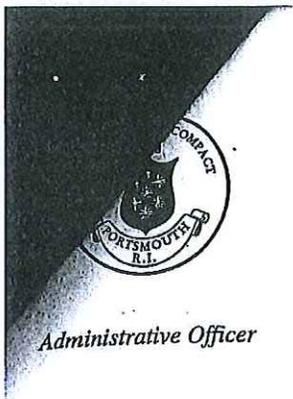
Thank you for your consideration.

Very truly yours,

William E. Clark

cc: Albert D. Buddemeyer  
Vernon L. Gorton /  
Robert A. Lantz

0B1



Town of Portsmouth  
Planning Board

2200 East Main Road • Portsmouth, Rhode Island 02871

Administrative Officer

(401) 683-3717  
Fax (401) 683-6804

October 23, 2007

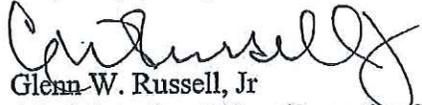
Town Council  
Town of Portsmouth

Re: Zoning Change, AP 41, Lots 29A, 48 & 51

Your Honorable Body:

On 19 October 2007, the Planning Board voted to recommend changing the zoning designation for Lots 29A, 48 and the southern portion of Lot 51, all of AP 41, from R-20 to C-1. This change would reflect the actual use of the lots and would be consistent with the use and zoning of surrounding properties.

Very truly yours,

  
Glenn W. Russell, Jr  
Administrative Officer/Executive Secretary

Town of Portsmouth  
Design Review Board

Design Review: Advisory Opinion

**PETITIONER: Robert A. Lantz, Owner**  
1960 East Main Road; Map 41, Lot 48

**HEARING DATE:** Monday, April 5th, 2010

**DESIGN REVIEW BOARD:** Members Present: John Borden, Web Wilson, Allen Shers, and Frank Munro.

**LANTZ:** Robert Lantz, Owner; Robert Morin, Architect; Vernon Gorton, Attorney

**BACKGROUND:** Petitioner currently operates an existing retail sales business with manufacturing, assembly, and outdoor display of merchandise including firewood. The plan is to demolish two existing buildings and a shed and replace with one 7,900 sq. ft. building. The new building will provide a more attractive streetscape and a safer more efficient facility with more activities performed indoors.

**SITE PLANNING:**

The parking lot will be gravel vs. paved. Parking spaces are minimal (six spaces). There is no other logical place to locate the parking rather than in the front of the property. Narrow lot. "Manufacturing" operations taking place in the rear with heavy equipment would present a safety hazard if parking was in the rear.

HVAC mechanical equipment will not be visible on the exterior of the building or on the site. Proper screening should be utilized to hide any HVAC equipment.

Dumpsters will be located in the rear of the property. If at any time a dumpster is placed in the front of the property it shall be fenced and/or screened.

**Lighting:**

Downward pointing, "no spill" light fixtures shall be utilized to minimize the light visible to the residential abutters to the north. Traditional goose neck exterior lighting is recommended for the street and building signage.

**ARCHITECTURAL EXPRESSION:**

It is a challenge to figure out how to incorporate traditional design features and materials into a proposed garage/storage/warehouse structure. Typically those buildings are comprised of 100% metal siding on all elevations, no roof pitch, no windows, solid steel entry doors, and large garage doors.

Although the petitioner's are proposing a mostly metal structure, the sales facility portion in the front elevation will include traditional design features and materials. It will feature red cedar shingles, redwood painted dark green trim, Marvin integrity windows, covered porch, and architectural roof shingles. The roof pitch will be 6 over 12.

**LANDSCAPING:**

The perimeter of the parking area will be grass and low lying shrubs. Plantings will also be placed along the front of the wooden deck. Grass / lawn will exist along East Main Road.

**SIGNAGE:**

Traditional signage design/materials are proposed. The petitioner is proposing to incorporate the design features of the front elevation into the signage. One free standing street sign in compliance with the sign ordinance is proposed. Also, one wall mounted sign over the covered porch is proposed. Both externally lit with goose neck lighting.

**SUMMARY:**

The Design Review Board (DRB) appreciates the cooperation displayed by the petitioner. Commercial garage/warehouse/storage buildings are a design challenge. The petitioner has done an excellent job of incorporating traditional design features and materials in the front elevation that will be visible from East Main Road. In summary, the DRB feels the petitioner has meet the criteria set forth in Portsmouth's Design Review Guidelines.

**RECOMMENDATIONS:**

- 1) The building should be constructed as proposed per the plans dated January 20<sup>th</sup>, 2010 and discussed with the Design Review Board at the April 5<sup>th</sup>, 2010 meeting (see above for more detailed design & building materials description).
- 2) HVAC mechanical equipment and on-site dumpsters should be hidden from view should they be placed on site.
- 3) Traditional lighting should be utilized wherever possible. "Canned", downward pointing, "no spill" light fixtures shall be utilized that minimize the light visible to the residential abutters to the north.
- 4) Landscaping / plantings will be placed along perimeter of the parking area, the front elevation, and around the street side sign.
- 5) Signage should be traditional and incorporate the building design/materials as discussed and referenced on the plans dated January 20<sup>th</sup>, 2010. Signs should be externally lit.

  
John G. Borden: Chairman  
Portsmouth Design Review Board

CC: Planning Board  
DRB Members



## Town of Portsmouth

### ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

(401) 683-3611

Petition of Robert A. Lantz  
1960 East Main Road  
Tax Assessor's Map 41, Lot 48  
Zoned: Commercial

### DECISION

Petitioner seeks a special use permit under the Portsmouth Zoning Ordinance in order to construct a building approximately seven thousand nine hundred (7900) square feet in area and demolish smaller buildings for the purpose of moving the major part of his presently existing retail sales business with manufacturing, assembly and outdoor display inside.

The petition was heard on April 15, 2010. Petitioner was represented by Attorney Vernon L. Gorton. A written summary of Petitioner's request was submitted with the petition and is a part of the board of review record.

Petitioner operates on the subject property a retail sales business with manufacturing, assembly and outdoor display of merchandise. Sales are conducted in a four hundred (400) square foot wooden building. Another building toward the rear of the lot is used for manufacturing and assembly activities, as well as firewood preparation and sales. Some of the operations of the business are conducted outdoors.

The property abuts a state highway. There is an automobile repair business to the north. To the south are located the administrative offices of the Portsmouth Water & Fire District and a related water tank. Commercial establishments are located across the road from the property. There are some residential neighbors to the north, but their land is protected by an eight (8') foot high stockade fence. A lot to the rear, that also abuts the property in part along the north boundary, is owned by Petitioner. There will be no change in the activities conducted on the property.

Mr. Gorton explained that Petitioner plans to move as much of his operation as possible indoors. Petitioner has met with the Design Review Board, which reacted favorably to the appearance of the building. The business operations will be moved further away from neighboring residences.

Petitioner testified that he has been operating the business for fifteen years. His uncle owned the business before him, since 1973. The plan is to eliminate an existing Quonset Hut on the property and another small building. They will be replaced by the new building.

The board voted unanimously to make any special use permit granted subject to five conditions. Members participating were Chairman James E. Nott, Secretary James E. Edwards, Kevin M. Aguiar, Michael A. Lyga, and Kenneth A. James, Jr. The conditions are as follows:

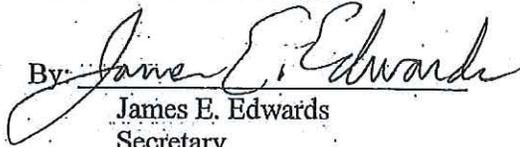
1. The building shall be constructed as proposed in the plans dated January 20, 2010, and discussed with the Design Review Board at the April 5, 2010, meeting of that board as set forth in the report of said Board to the planning board, which report is in the records of the board of review.
2. HVAC mechanical equipment and on-site dumpsters shall be hidden from view if they are placed on the site.
3. Traditional lighting shall be used wherever possible, "Canned," downward pointing, "no spill" fixtures shall be utilized so that light visible to the residential abutters to the north shall be minimized.
4. Landscaping/plantings shall be placed along the perimeter of the parking area, the front elevation, and around the street side sign.
5. Signage shall be traditional and incorporate the building design/materials as discussed and referenced on said plans dated January 20, 2010. Signs shall be externally lit.

The board voted unanimously to grant the special use permit as so conditioned. The board found that the proposal would be a great improvement to the property. The proposed metal building, with the exterior materials described on the plan, will fit in with neighboring uses.

The board concluded that the desired use will not be detrimental to the surrounding area. It will be compatible with neighboring land uses. It will not create a nuisance or a hazard in the neighborhood. Adequate protection is afforded to the surrounding property by the use of open space and planting. Safe vehicular access and adequate parking are provided. Control of noise, smoke, odors, lighting and any other objectionable feature is provided. Solar rights of the abutters are provided for. The proposed special use will be in conformance

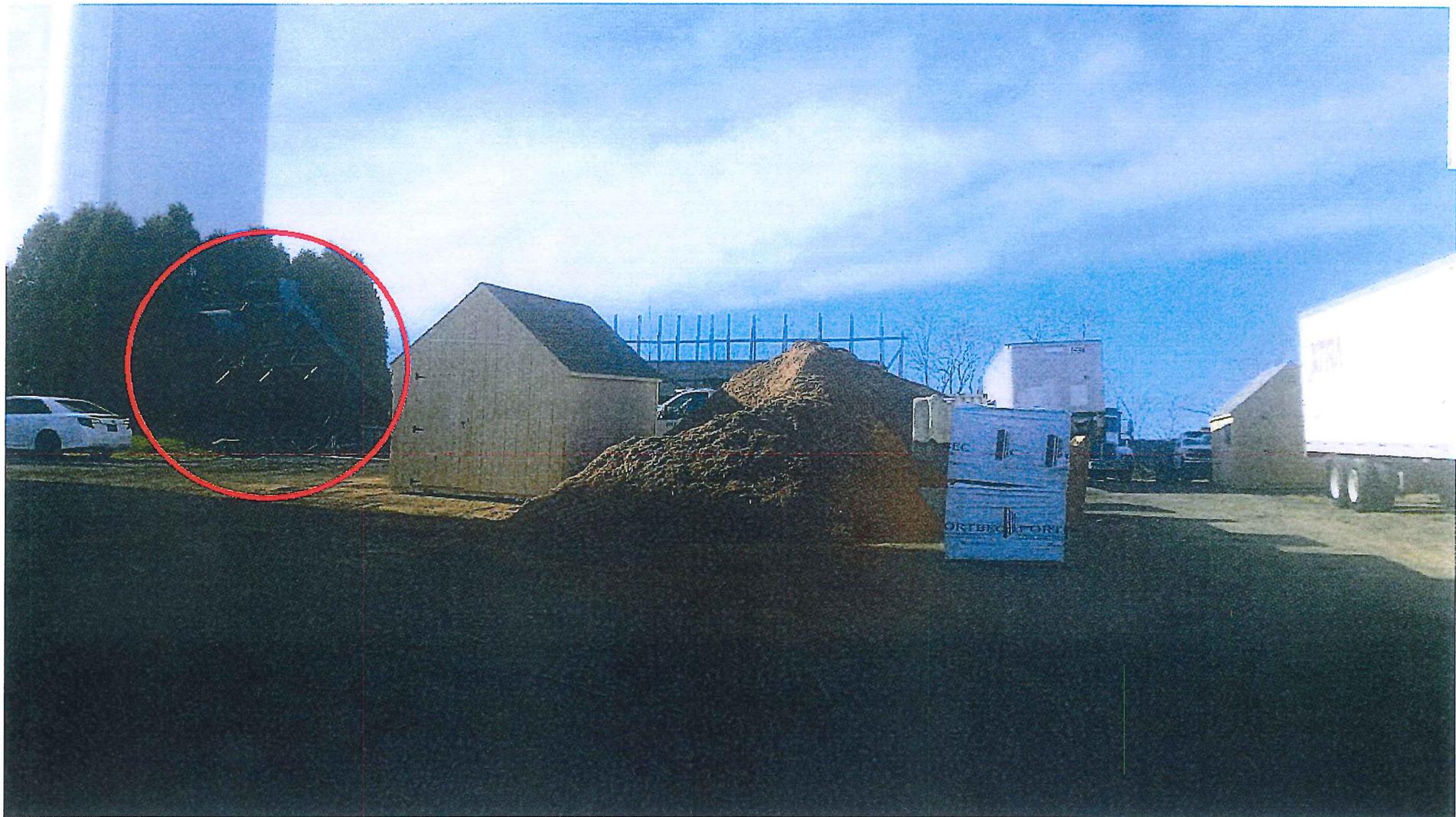
with the purposes and intent of the comprehensive plan and the zoning ordinance of the Town of Portsmouth. The health, safety and welfare of the community are protected.

Portsmouth Board of Review

By:   
James E. Edwards  
Secretary

Dated: *May 4, 2010*

IF CONSTRUCTION IS NOT INITIATED BY JUNE 30, 2012, THIS PERMIT WILL EXPIRE AND  
BECOME NULL AND VOID





# Acoustifence®

QUIETING THE WORLD

MADE IN  
USA

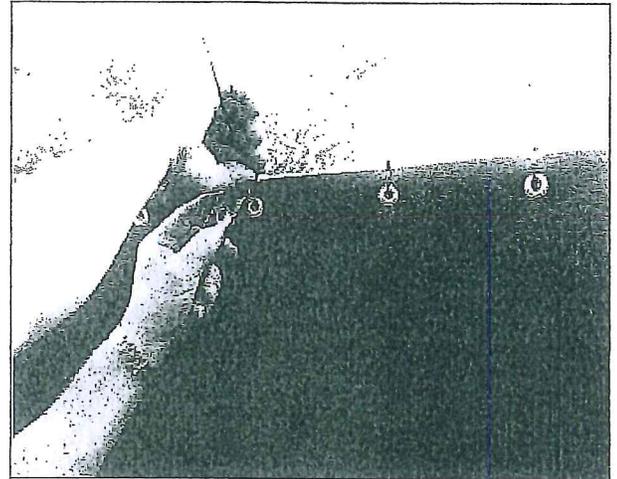


100%  
Recyclable

North American Office  
Acoustiblok, Inc.  
6900 Interbay Boulevard  
Tampa, FL 33616 USA  
Phone: 813-980-1400  
Fax: 813-549-2653  
www.acoustiblok.com  
sales@acoustiblok.com

## Acoustifence® Benefits and Specifications

- The material itself is lab tested STC value of 28, which represents over an 80% reduction in sound to the human ear. (Your results will be less as sound reflects off all surrounding materials or structures, i.e., buildings, trees, etc.)
- Works extraordinarily well at blocking direct line of sight sound.
- Far less sound reflected than solid walls.
- Installed or removed in less than one hour.
- To store, Acoustifence easily rolls up like a carpet into 12 in. roll.
- UV tolerant and does not support mold.
- Virtually indestructible, very resilient material.
- 100% recyclable
- Comprised of 100% recycled materials.
- Will accept most paint finishes.
- Includes qty. 70, 11 in. heavy duty 120 lb. (black) nylon ties; stainless steel ties are available.
- Can blend in with any background using our Acoustifence-Landscapes®.



## Material Specifications – Part # “Acoustifence 6x30 Industrial”

Acoustical Rating	STC 28 / OITC 22
Size	6 ft. (1.83m) x 30 ft. (9.14m) x 0.125 in. (3mm) 180 ft <sup>2</sup> (16.72m <sup>2</sup> )
Weight	185 lbs. (84Kg)
Fastening	Black brass grommets every 6 in. (152mm) along top edge with four grommets spaced along the bottom edge. Commonly installed horizontally.
Color	Black or Forest Green
(This is an industrial product and minor surface blemishes are a possibility.)	

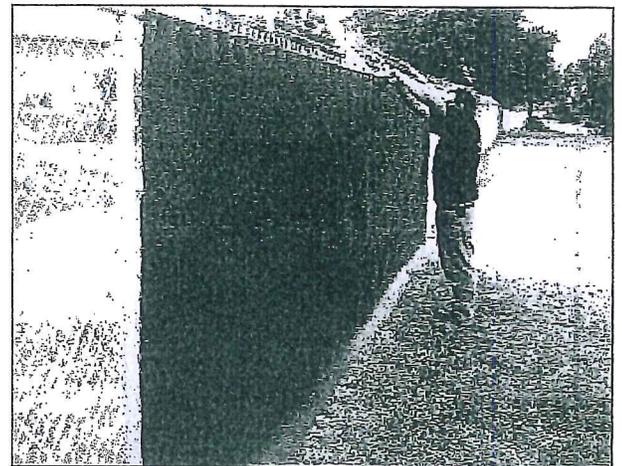
## Acoustifence® Basic Installation (see detailed installation sheet)

Number of people: 2

Time required: 20/30 min.

Items: Utility Knife, Pliers, 70 lb. nylon ties (included with purchase)

1. Cut and remove the plastic wrap around the roll.
2. Lean the roll against the fence as vertical as possible with the grommet edge to the top. Line up the top of the roll to the top of the fence or at the desired height.
3. Begin unrolling the Acoustifence material along the fence. Have one person slowly unroll the material while the second person inserts the ties in each grommet as the material is unrolled. Insure that the material is kept taught as you install the nylon ties to prevent it from sagging.
4. Pull each nylon tie (included in fence purchase) so that the Acoustifence is properly lined up at the desired height. DO NOT make the nylon tie tight! It must be loose enough to allow the eyelet to pivot freely. Try to distribute weight equally.
5. Very cold temperature will reduce flexibility when installing.



(Specifications and prices subject to change without notice.)

Middle East Office: Kingdom Tower, Riyadh, Kingdom of Saudi Arabia

Acoustifence Benefits and Specifications 12232011

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United Kingdom Office: acoustiblok.com

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Page 1 of 2

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**Acoustifence® Acoustical Test Data**  
(Performed by an Independent Certified Test Lab)

Date: 05/25/2006

Specimen: Acoustifence Sound Barrier Material

Specimen Area: 6.0 Sq. Ft.

Filler Area: 134.0 Sq. Ft.

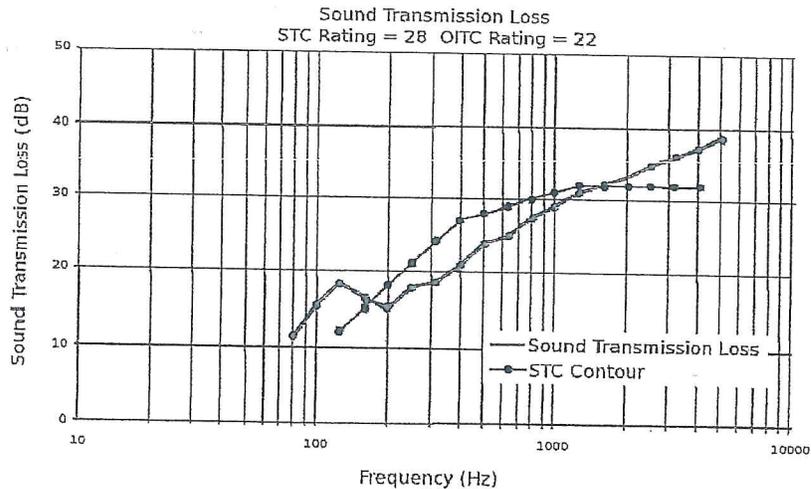
Operator: W. Green

	Bkgrd	Absorp	Source	Receive	Filler	Specimen
Temp F	73.9	74.0	73.1	73.9	73.1	73.7
R. H. %	65.7	65.7	63.3	65.7	61.4	65.1

Freq (Hz)	Bkgrd SPL (dB)	Absorp (Sabines / Sq. Ft.)	Source SPL (dB)	Receive SPL (dB)	Filler TL (dB)	Specimen TL (dB)	95% Conf Limit	No. of Deficiencies	Trans Coef Diff
80	43.0	52.5	84.2	63.7	36.3	11	2.54	0	11.7
100	39.2	59.1	87.7	62.9	40.3	15	3.77	0	12.0
125	47.4	55.9	91.5	63.7	47.5	18	2.02	0	15.9
160	43.4	50.4	94.2	68.8	46.2	16	1.06	0	16.5
200	43.0	54.9	97.9	73.5	49.6	15	0.80	3	21.3
250	35.8	53.0	99.3	72.2	51.0	18	1.12	3	19.8
315	33.7	57.2	95.7	67.5	54.0	18	0.53	6	22.1
400	33.3	56.0	95.0	64.6	58.4	21	0.78	6	24.3
500	31.6	56.3	98.8	65.4	60.5	24	0.30	4	23.4
630	25.1	57.7	101.5	66.9	65.2	25	0.53	4	26.9
800	25.2	59.9	101.3	63.8	67.4	27	0.54	3	26.4
1000	23.2	62.6	101.0	61.9	72.2	29	0.49	2	29.8
1250	23.8	69.4	105.1	63.7	78.0	31	0.28	1	33.8
1600	20.1	70.2	111.4	68.6	81.8	32	0.22	0	36.3
2000	15.0	76.3	107.4	63.2	79.9	33	0.22	0	33.2
2500	7.5	86.9	105.9	59.3	74.8	35	0.23	0	26.3
3150	8.4	102.0	106.6	58.0	77.8	36	0.33	0	28.0
4000	7.7	124.9	105.6	55.0	81.1	37	0.33	0	30.2
5000	8.1	162.8	104.1	51.0	81.0	39	0.36	0	28.7

STC Rating = 28 (Sound Transmission Class)

Deficiencies = 32 (Number of deficiencies versus contour curve)



Specifications subject to change without notice.

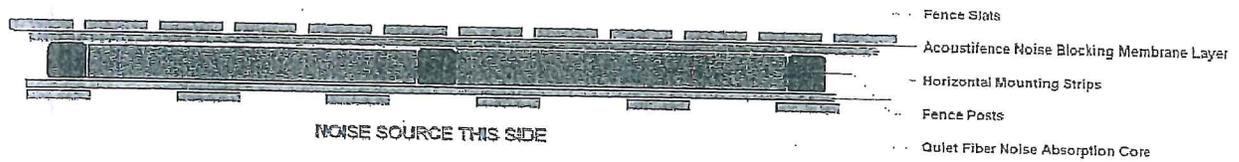
## Acoustifence

Acoustifence is a limp mass, line of sight outdoor acoustical barrier designed to hang on an existing chain link fence or be incorporated into a wooden fence to dramatically increase the STC (Sound Transmission Class) of the barrier. STC is a rating of how much sound transmits through a barrier. Acoustifence attenuates more sound than the same weight of lead and is very easy to install. It is UV resistant, will not mold or mildew and is paintable. Your results will vary depending on surrounding objects that will reflect some sound over the line of sight. Distance will also be a factor. Call us for a free consultation.

### Creating an absorption barrier

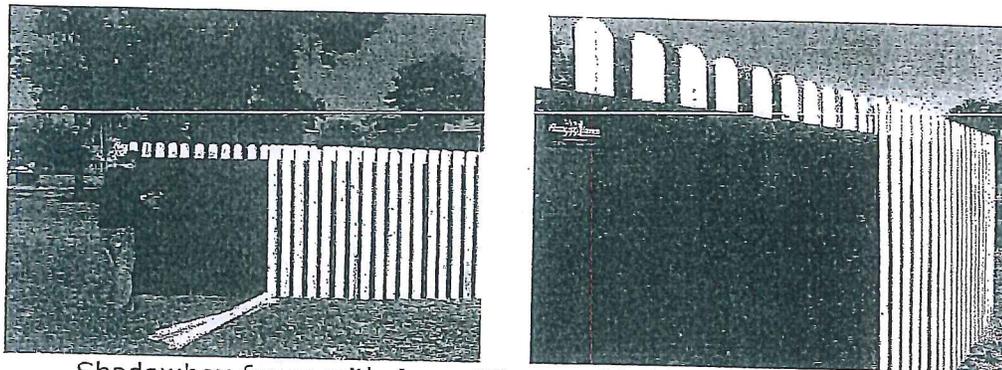
**Acoustifence & Quietfiber** – You can create an absorption barrier by incorporating Acoustifence and Quietfiber into a wooden fence. Absorption barriers are needed around residential noise sources such as AC Units, Heat Pumps, Generators, compressors etc.

#### **WOODEN PRIVACY FENCE w/ ACOUSTIFENCE & QUIET FIBER**

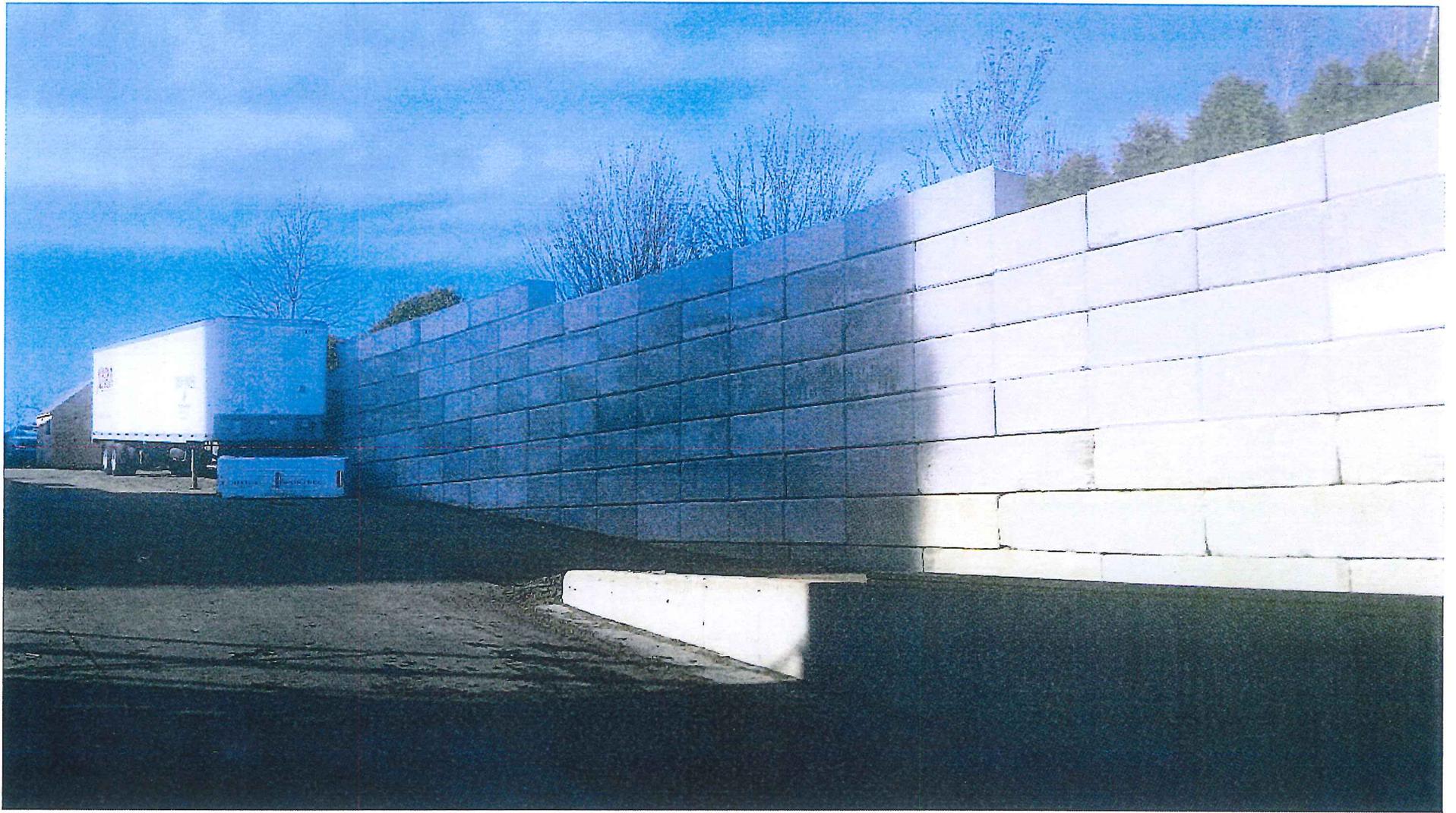


### Creating a reflective acoustical barrier

**Acoustifence** – Adding Acoustifence to a wooden fence will dramatically increase the sound transmission loss through the fence and create a reflective barrier.



Shadowbox fence with Acoustifence added – reflective barrier.





**SOUND READINGS AT BILL'S SALES PROPERTY**

**Thursday- 1/7/16**

**Location 1- Property Line with East Main Road**

Time (PM)	dBA
3:08	81.2
3:09	79.8
3:10	70.3
3:11	73.1
3:12	75.7
<b>Average</b>	<b>76</b>

**Location 2- Property Line with Lot 29A**

Time (PM)	dBA
3:14	61.3
3:15	56.5
3:16	61.6
3:17	54.9
3:18	59.2
<b>Average</b>	<b>58.7</b>

**Location 3- Property Line with Lot 29A**

Time (PM)	dBA
3:19	57.5
3:20	54.0
3:21	65.6
3:22	52.9
3:23	56.9
<b>Average</b>	<b>57.38</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (PM)	dBA
3:24	47.7
3:25	46.8
3:26	48.9
3:27	51.2
3:28	50.6
<b>Average</b>	<b>49.04</b>

**Location 4- Property Line with Waring Property/Lot 52 (while running Log Loader)**

Time (PM)	dBA
3:29	70.3
3:30	71.7
3:31	72.2
3:32	73.1
3:33	72.4
<b>Average</b>	<b>71.94</b>

**Location 5- Property Line with Lot 51 (while running Log Loader from 3:34-3:36)**

Time (PM)	dBA
3:34	68.8
3:35	68.1
3:36	67.7
3:37	48.8
3:38	52.6
<b>Average</b>	<b>61.2</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (PM)	dBA
3:39	70.4 (Horn sound by truck on East Main Rd)
3:40	53.8
3:41	53.3
3:42	54.0
3:34	51.2
<b>Average</b>	<b>56.54</b>

**Thursday average dBA = 61.54**

**Average dBA without Location 1 (East Main Road) = 59.13**

**Average along Waring Property Line (3A and 4) = 60.49**

**Friday- 1/8/16 (Morning)**

**Location 1- Property Line with East Main Road**

Time (AM)	dBA
8:03	87.4
8:04	72.6
8:05	88.8
8:06	76.3
8:07	91.2
<b>Average</b>	<b>83.26</b>

**Location 2- Property Line with Lot 29A**

Time (AM)	dBA
8:08	73.3
8:09	70.6
8:10	68.4
8:11	62.1
8:12	71.1
<b>Average</b>	<b>69.1</b>

**Location 3- Property Line with Lot 29A**

Time (AM)	dBA
8:13	66.9
8:14	67.2
8:15	64.4
8:16	61.7
8:17	62.8
<b>Average</b>	<b>64.6</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (AM)	dBA
8:18	55.5
8:19	58.2
8:20	67.7
8:21	58.4
8:22	59.6
<b>Average</b>	<b>59.88</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (AM)	dBA
8:23	61.6
8:24	68.2
8:25	58.6
8:26	63.3
8:27	63.8
<b>Average</b>	<b>71.94</b>

**Location 5- Property Line with Lot 51**

Time (AM)	dBA
8:27	61.6
8:24	68.2
8:25	58.6
8:26	63.3
8:27	63.8
<b>Average</b>	<b>63.1</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (AM)	dBA
8:34	72.8
8:35	78.9
8:36	74.1
8:37	66.6
8:38	64.1
<b>Average</b>	<b>71.3</b>

**Friday morning average dBA = 69.02**

**Average dBA without Location 1 (East Main Road) = 66.56**

**Average along Waring Property Line (3A and 4) = 65.91**

**Friday- 1/8/16 (Late Morning)**

**Location 1- Property Line with East Main Road**

Time (AM)	dBA
11:11	73.8
11:12	77.9
11:13	76.0
11:14	80.6
11:15	81.1
<b>Average</b>	<b>77.88</b>

**Location 2- Property Line with Lot 29A**

Time (AM)	dBA
11:16	69.7
11:17	68.6
11:18	69.5
11:19	70.5
11:20	60.2
<b>Average</b>	<b>67.7</b>

**Location 3- Property Line with Lot 29A**

Time (AM)	dBA
11:21	52.2
11:22	66.2
11:23	56.9
11:24	68.1
11:25	64.1
<b>Average</b>	<b>61.5</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (AM)	dBA
11:26	58.5
11:27	66.2
11:28	47.9
11:29	51.2
11:30	49.3
<b>Average</b>	<b>54.62</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (AM)	dBA
11:31	50.9
11:32	46.8
11:33	46.3
11:34	52.2
11:35	47.5
<b>Average</b>	<b>48.74</b>

**Location 5- Property Line with Lot 51**

Time (AM)	dBA
11:36	41.6
11:37	42.7
11:38	42.2
11:39	56.5
11:40	48.6
<b>Average</b>	<b>46.32</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (AM)	dBA
11:41	56.5
11:42	59.8
11:43	66.2
11:44	59.7
11:45	69.4
<b>Average</b>	<b>62.32</b>

**Friday late morning average dBA = 59.87**

**Average dBA without Location 1 (East Main Road) = 56.86**

**Average along Waring Property Line (3A and 4) = 51.68**

**Friday- 1/8/16 (Afternoon)**

**Location 1- Property Line with East Main Road**

Time (PM)	dBA
12:54	86.2
12:55	71.4
12:56	77.7
12:57	67.7
12:58	71.6
<b>Average</b>	<b>74.92</b>

**Location 2- Property Line with Lot 29A**

Time (PM)	dBA
12:59	67.6
1:00	72.2
1:01	71.6
1:02	64.8
1:03	66.3
<b>Average</b>	<b>68.5</b>

**Location 3- Property Line with Lot 29A**

Time (PM)	dBA
1:04	64.2
1:05	61.7
1:06	60.3
1:07	62.2
1:08	67.1
<b>Average</b>	<b>63.1</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (PM)	dBA
1:09	58.9
1:10	56.3
1:11	74.1
1:12	56.0
1:13	55.2
<b>Average</b>	<b>60.1</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (PM)	dBA
1:14	58.8
1:15	62.6
1:16	57.1
1:17	60.0
1:18	61.6
<b>Average</b>	<b>60.02</b>

**Location 5- Property Line with Lot 51**

Time (PM)	dBA
1:19	56.9
1:20	61.8
1:21	63.2
1:22	64.1
1:23	63.0
<b>Average</b>	<b>61.8</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (PM)	dBA
1:24	66.6
1:25	91.0
1:26	69.7
1:27	68.6
1:28	68.4
<b>Average</b>	<b>72.86</b>

**Friday afternoon average dBA = 65.9**

**Average dBA without Location 1 (East Main Road) = 63.4**

**Average along Waring Property Line (3A and 4) = 60.06**

**Friday- 1/8/16 (Evening)**

**While Bill's Sales is CLOSED**

**Location 1- Property Line with East Main Road**

Time (PM)	dBA
7:36	82.4
7:37	78.3
7:38	85.1
7:39	79.6
7:40	57.2
<b>Average</b>	<b>77.52</b>

**Location 2- Property Line with Lot 29A**

Time (PM)	dBA
7:41	57.6
7:42	51.1
7:43	50.8
7:44	47.2
7:45	53.8
<b>Average</b>	<b>52.1</b>

**Location 3- Property Line with Lot 29A**

Time (PM)	dBA
7:46	47.7
7:47	49.1
7:48	39.9
7:49	57.7
7:50	46.2
<b>Average</b>	<b>48.12</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (PM)	dBA
7:51	39.9
7:52	41.6
7:53	----- (sound levels below detection threshold)
7:54	42.6
7:55	----- (sound levels below detection threshold)
<b>Average</b>	<b>41.36</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (PM)	dBa
7:56	47.9
7:57	52.8
7:58	46.6
7:59	43.9
8:00	43.6
<b>Average</b>	<b>46.96</b>

**Location 5- Property Line with Lot 51**

Time (PM)	dBa
8:01	41.0
8:02	45.1
8:03	43.7
8:04	42.9
8:05	41.8
<b>Average</b>	<b>42.9</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (PM)	dBa
8:06	44.8
8:07	43.3
8:08	41.8
8:09	46.2
8:10	41.2
<b>Average</b>	<b>43.46</b>

**Friday evening average dBA = 50.35**

**Average dBA without Location 1 (East Main Road) = 45.82**

**Average along Waring Property Line (3A and 4) = 44.16**

**Saturday- 1/9/16 (Early Morning)**

**While Bill's Sales is CLOSED**

Location 1- Property Line with East Main Road

Time (AM)	dBA
5:08	79.7
5:09	56.8
5:10	74.1
5:11	55.1
5:12	61.4
<b>Average</b>	<b>65.42</b>

Location 2- Property Line with Lot 29A

Time (AM)	dBA
5:13	48.8
5:14	56.6
5:15	50.2
5:16	50.8
5:17	58.1
<b>Average</b>	<b>52.9</b>

Location 3- Property Line with Lot 29A

Time (AM)	dBA
5:18	46.8
5:19	52.1
5:20	54.3
5:21	48.6
5:22	48.0
<b>Average</b>	<b>49.96</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (AM)	dBA
5:23	46.4
5:24	41.2
5:25	----- (sound levels below detection threshold)
5:26	40.8
5:27	40.2
<b>Average</b>	<b>42.15</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (AM)	dBA
5:28	51.9
5:29	53.3
5:30	51.0
5:31	52.6
5:32	56.4
<b>Average</b>	<b>53.04</b>

**Location 5- Property Line with Lot 51**

Time (AM)	dBA
5:32	52.8
5:33	46.6
5:34	49.1
5:35	52.0
5:36	44.2
<b>Average</b>	<b>48.94</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4**

Time (AM)	dBA
5:37	56.1
5:38	50.4
5:39	53.3
5:40	48.6
5:41	49.7
<b>Average</b>	<b>51.62</b>

**Saturday early morning average dBA = 52**

**Average dBA without Location 1 (East Main Road) = 49.77**

**Average along Waring Property Line (3A and 4) = 47.56**

**Saturday 1/9/16 (Morning)**

**Location 1- Property Line with East Main Road**

Time (AM)	dBA
9:14	76.1
9:15	88.8
9:16	90.4
9:17	87.3
9:18	91.2
<b>Average</b>	<b>86.76</b>

**Location 2- Property Line with Lot 29A**

Time (AM)	dBA
9:19	70.4
9:20	68.7
9:21	69.5
9:22	69.2
9:23	67.6
<b>Average</b>	<b>69.08</b>

**Location 3- Property Line with Lot 29A (While Loading Baskets of Firewood from 9:26-9:28)**

Time (AM)	dBA
9:24	64.2
9:25	66.1
9:26	76.4
9:27	85.1
9:28	72.3
<b>Average</b>	<b>72.82</b>

**Location 3A- Property Line with Waring Property/ Lot 52 (While Loading Baskets of Firewood from 9:29-9:31)**

Time (AM)	dBA
9:29	67.1
9:30	52.1
9:31	69.5
9:32	57.2
9:33	53.1
<b>Average</b>	<b>59.8</b>

**Location 4- Property Line with Waring Property/Lot 52 (Log Loader running from 9:36-9:38)**

Time (AM)	dBa
9:34	67.6
9:35	64.2
9:36	74.3
9:37	71.0
9:38	73.2
<b>Average</b>	<b>70.06</b>

**Location 5- Property Line with Lot 51 (Log Loader running)**

Time (AM)	dBa
9:39	75.8
9:40	77.2
9:41	76.3
9:42	74.2
9:43	77.1
<b>Average</b>	<b>76.12</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4 (Log Loader running)**

Time (AM)	dBa
9:45	65.3
9:46	66.8
9:50	67.2
9:51	66.1
9:52	68.4
<b>Average</b>	<b>66.76</b>

**Saturday morning average dBA = 71.62**

**Average dBA without Location 1 (East Main Road) = 69.11**

**Average along Waring Property Line (3A and 4) = 64.93**

**Saturday 1/9/16 (Afternoon)**

**Location 1- Property Line with East Main Road**

Time (AM)	dBA
2:33	78.6
2:34	81.4
2:35	83.3
2:36	76.2
2:37	69.1
<b>Average</b>	<b>77.72</b>

**Location 2- Property Line with Lot 29A**

Time (AM)	dBA
2:38	71.4
2:39	77.2
2:40	68.8
2:41	61.1
2:42	74.4
<b>Average</b>	<b>70.58</b>

**Location 3- Property Line with Lot 29A**

Time (AM)	dBA
2:43	71.2
2:44	84.1 (Loading Basket with Firewood)
2:45	68.4
2:46	69.2
2:47	80.6 (Loading Basket with Firewood)
<b>Average</b>	<b>72.82</b>

**Location 3A- Property Line with Waring Property/ Lot 52**

Time (AM)	dBA
2:48	64.4
2:49	71.2 (Loading Basket with Firewood)
2:50	60.1
2:51	62.2
2:52	68.8 (Loading Basket with Firewood)
<b>Average</b>	<b>65.34</b>

**Location 4- Property Line with Waring Property/Lot 52**

Time (AM)	dBA
2:53	66.3
2:54	71.4
2:55	77.2
2:56	68.8
2:57	69.4
<b>Average</b>	<b>70.62</b>

**Location 5- Property Line with Lot 51 (Skidsteer running from 3:00-3:02)**

Time (AM)	dBA
2:58	69.1
2:59	66.2
3:00	77.4
3:01	81.8
3:02	74.2
<b>Average</b>	<b>73.74</b>

**Location 6- Along Northerly Wall of Bill's Sales building adjacent to locations 3A and 4  
(Skidsteer running from 3:03-3:04)**

Time (AM)	dBA
3:03	76.1
3:04	70.3
3:05	62.1
3:06	63.9
3:07	66.4
<b>Average</b>	<b>67.76</b>

**Saturday afternoon average dBA = 71.23**

**Average dBA without Location 1 (East Main Road) = 70.14**

**Average along Waring Property Line (3A and 4) = 66**

Portsmouth Residents Petition

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Name

Address

Raymond A. Zait  
 Darrell M. Dube  
 Greg Mathis  
 Scott Shearman  
 Melissa J Benite  
 Kathy Abbe  
 Paul J. [unclear]  
 Jack Butterworth  
 Vincent Truver  
 Julie Truver  
 Paul M. Cotto  
 M. Curdeauy  
 Cliff Neilborn  
 Russell [unclear]  
 Deb Peterson  
 Bill BAKER  
 JEFF PITT  
 Kirk GREFFEN  
 Kyle Lambert  
 Christina Lantz  
 John Ferris  
 Joe Raposa  
 Lori SILVA  
 George Ledue  
 Mike Norton

1378 E. MAIN RD.  
 700 Park Ave - Apt 7  
 726 Park Ave Apt 7  
 177 Windward Dr.  
 39 WAPPING RD.  
 97 King Charles Dr.  
 1960 EAST MAIN RD  
 27 SILUS AVE  
 697 BRISTOL FERRY ROAD  
 697 BRISTOL FERRY ROAD  
 895 MIDDLE ROAD PORTSMOUTH  
 Kristen Verdeaux 120 Foxboro A  
 87 ALAN AVE PORTS.  
 52 Broad Camp  
 114 PARK AVE PORTS  
 30 WARNER AVE.  
 48 GILDAS LN.  
 15 ARROWHEAD CIRCLE  
 1579 East Main Road  
 1378 E. Main Rd  
 7 Jeffers St  
 30 Water St. (508) 769-17  
 47 Ethel DR. PORTS. RI  
 35 McCarrie Lane  
 116 Morseman Dr Portsmouth  
 1461-781-2711

	Name	Address
26	Michael <del>Statt</del>	44 Deles Meade Dr. Ports
27	Janie Layman	94 Long Meadow Rd Ports
28	Phis A Regs	75 Licer Lane
29	Wayne Oliveira	169 mill lane
30	Caroline L. Miller	13 Fox Run Rd.
31	Tom Gilchrist	44 Selina La.
32	Carol Selira	55 EVERGREEN Drive PORTS,
33		10 Schmycke Ln Portsmouth
34	Joe McCarty	8 Thayer Ave
35	JERRY CULVER	164 HERITAGE DR. PORTSMOUTH
36	Sidney Reposa	40 Point Rd Portsmouth
37	Leann Hewitt	308 Jepson Lane Portsmouth
38	Edward McEllan	157 Bayview Ave Portsmouth
39	Alice Larty	1322 E. MAIN RD PORTSMOUTH
40	Cathy Puckey	152 E Main Rd ports RI
41	Thomas Ohlgren	57 dighton Ave Portsmouth RI
42	Scott Roman	48 Peaceful way Portsmouth RI
43	Bruce Van Alstyne	11 Lock Bldg - 02871
44	Frances Plummer	23 Gildas lane Portsmouth, RI
45	William Catto	24 McCarrie lane Rd
46	A.S. <del>Osborn</del>	70 WREWS, Littleport RI
47	Jayne Amey	40 Hargraves Dr. Portsmouth
48	Jay	21 3RD ST New
49	Don W. Con	44 Hope Ave Portsmouth
50	Leslie O'Leary	44 Hope Ave Ports mo

name

Address

51	Deb Tavares	64 Sherwood Terr
52	Brian Kane	123 Viking Drive
53	James M Campbell	127 Soares Drive
54	Robert Kiely	110 Prospect Farm Road
55	Myrna Blondal	218 Carroll Ave Npt.
56	Brydgett	72 Kane Ave - in town
57	Rich Garland	58 Albert St Portsmouth
58	Kaunale Saarey	40 Anselmo Dr Port
59	Carl Orr	116 Adams Dr Portsmouth
60	Megan Lee	39 Pine Tree Rd Portsmouth
61	Chip Prescott	63 Crestview DR
62	Ed Ferreira	447 Bristol Ferry Rd.
63	Jennifer Porscare	62 King Phillip St Portsmouth
64	HARRY LEONARD	80 GATTIN TERR Rd PORTS
65	MINDA LEONARD	83 GATTIN TERR Rd PORTS
66	Patric Fenton	18 John Kesson Ln Middleboro
67	Scott Sherman	31 West Main Rd Portsmouth
68	Jim Mulligan	44 PETONANOWET LN Portsmouth
69	Bonnie Hole	107 Meadowlark Ln Portsmouth
70	Karin Rezende	49 Anselmo Dr Portsmouth
71	Ken Ren	49 Anselmo Dr Portsmouth
72	Lindsey Rezende	49 Anselmo Dr Portsmouth
73	Chelsea Rezende	49 Anselmo Dr Portsmouth
74	Mary D FERREIRA	72 KERR Rd PORTS
75	Edward A Ferreira	72 Ken Rd Portsmouth

<u>Name</u>	<u>Address</u>
76 Joseph Mathias	180 East Main RD Ports RI
77 Ralph E Peckham	101 Pleasant St Ports. RI
78 Edward T Lopez Jr	43 Hamilton Drive, Ports. RI
79 DAVID Ray mo	1597 WEST MAIN Rd Ports RI
80 Marianne Raymond	1597 West Main Rd Ports. RI
81 William Waller	448 Eight Rod Way Tiverton RI
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100	

Petition of Residents from Neighboring  
Communities

	Name	Address
1	Laura Ymbolau	28 Brackett Ave Tiverton
2	Delly Fort	73 OAKST, Middletown
3	Sharon Amaral	31 Freeborn St, Newport
4	Joe Chaves, Jr.	31 Freeborn St. Newport
5	Deb Matock	5 Greenbrier Dr. Barnington
6		240 Ufare ave. warwick RI
7	Kathy Abbona	97 Kiri
8	Alan Thayer	74 Seymour St, Warren, RI
9	Cryptophia Lambert	301 Bulgarmash/Tiverton RI
10	Bob Pinner	49 Richard Dr. Tiv
11	Michael Flynn	90 Fayal Lane Middletown, RI
12	Ronald Mignolghyn, Jr.	
13	Thomas G. Sandlin	446 Bellevue Ave NPT RI
14	Arthur T. Mitodou	28 Brackett Ave Tiverton
15	Eleanor Baker	44 Main Ave. Barrington RI
16	Mark Casey	5 Sunset View Dr Tiverton
17	John Bishara	77 Abalony Rd. NK
18	Joyl Cannon	80 Montgomery St. Fall River, MA
19	Paul J. Morley	133 Ferry Rd, Bristol RI
20	Ryan R. Moore	188 Briarwood Ave Tiverton, RI
21		5 Salsbuzue St. JAMESBORO, RI
22	Bob Pinner	95 John Street
23	James Ford	72 Beagle Dr Middletown RI
24		4 King Philip Way, FREETOWN MA
25	Jim Dobson	565 Tuckerman Ave Middletown

name

Address

- 26 Alex Shapiro 561 West Main Rd. Littleton, CO
- 27 Eric Ferschke 404 Fisher RD North Portsmouth, N.H.
- 28 Chad Jones 12 Hill St. Lakeville, MA 02347
- 29 John J McDonald 21 J.H. Dwyer Drive Middletown
- 30 [Signature] 58 Greylock Rd Bristol, RI 02802
- 31 [Signature] 2 Roseart Ter Middletown
- 32 [Signature] 7 Sycamore St. Newport, RI
- 33 Ker B Jones (KEITH'S JONES) 59 MOUNTAIN AVE RIVERSIDE, RI 02915
- 34 James C Lipe 86 Hobson Ave Tiverton
- 35 Dave Castro 48 Dewey Ave Tiverton
- 36 John O'Keefe 35 Pelham St Newport, RI
- 37 Josh Morse 877 Progress Parkway Newport
- 38 Nomi Gifford 14 SHERWOOD RD MIDDLETOWN RI
- 39 Bob DeLoft 26 Hopkin Rd Newport RI
- 40 Tom Deby 243 Albion Ave Middletown RI
- 41 [Signature] Danion St Newport
- 42 Jake Caters 218 Meadow Ln Middletown
- 43 Cheryl Cooper 15 TYLER POINT RD. BARRINGTON
- 44 Bert Swift SAME AS ABOVE
- 45 Chris Kane 174 Pasture Farm Dr. Middletown
- 46 Pam Bertel 4 Isaac Drive Middletown
- 47 Paula Borell 4 OSAGE DR. MIDDLETOWN
- 48 Matthew Sacker 1111 ST APT 5104 Tiverton, RI
- 49 David Spets 27 CIRCLE DR MIDDLETOWN, RI
- 50 Stephen Land 27 William St Newport

6/2/83

Name

Address

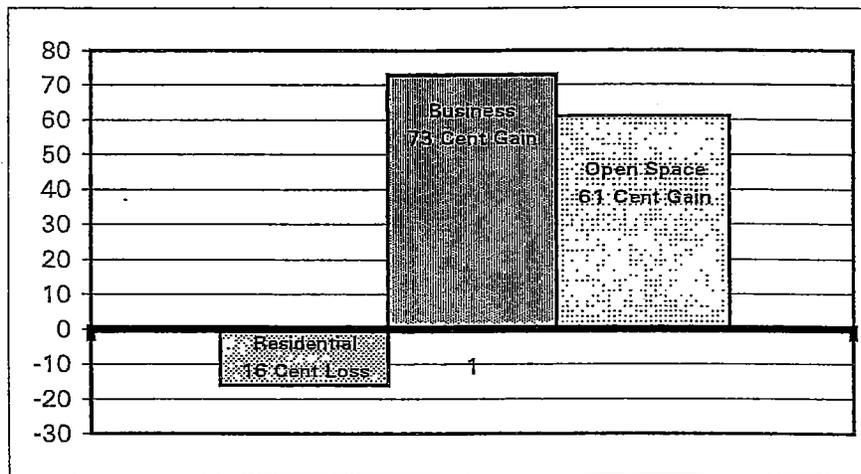
- 51 Michael Bowers
- 52 Heather Ferro
- 53 David Smith
- 54 James Colcoran
- 55 Matias Nawro
- 56 Jeff [unclear]
- 57 Brian Fisher
- 58 Holly Borgveta
- 59 Eric M. Preme
- 60 Leslie Nogueira
- 61 Richard M. Royall
- 62 [unclear]
- 63 Thomas D. Downes
- 64 JOHN CRIMMINS
- 65 Alayne White
- 66
- 67
- 68
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- 75

- 11 KAY STREET, NEWPORT RI
- 25 Teed Ave, Barrington RI
- 26 High St. Midd. TRI
- 4 Ellery Rd Npt
- 4 Ellery Rd Newport, RI
- 19 LIVINGSTON PLACE
- 666 Indian Ave Middletown, RI
- 30 Stonef Hollow Rd.
- 222 Brookhaven Rd.
- 110 Stonegate Dr
- 12 Poplar Dr.
- 100 RIVERSIDE DR TIVERTON
- 108 RIVER ST BRISTOL RI
- 11 Constitution St. Bristol, RI

**B. CURRENT NEED FOR ECONOMIC DEVELOPMENT**

Beside the obvious need for residents to have gainful employment and a reasonable standard of living, non-residential development (including maintenance of farms and open space) is needed to offset the costs of residential development, so that the Town may provide quality services at a reasonable "price" (tax rate). As detailed in a Cost of Community Services <sup>5</sup> study done for Portsmouth in 1997, the average housing unit costs the Town \$1.16 for every \$1.00 of total revenue. Open space and non-residential development contribute more to Town revenue than they cost.

Figure 18 - Gain/Loss per Dollar Town Government Revenue



Therefore, the result of residential development outpacing non-residential development is higher property taxes. From 1990 to 2000, Figure 16 shows the dramatic Commercial & Industrial revenues declined from 17% to 11% of total tax base. <sup>6</sup> This is not due to a loss of jobs; it is due to the rapidly expanding residential tax base and the relatively stagnant commercial tax base.

<sup>5</sup> "The Cost of Community Services in Portsmouth, Rhode Island"; Johnson, Dr. Robert J.; 1997 Aquidneck Island Partnership.

<sup>6</sup> Source of tables and graphs in this section: Portsmouth Economic Development Committee report, September 1999, as amended November 2000. Data source: Portsmouth Tax assessor records for year ending December 31, 1998 and 2000.

# Portsmouth Water and Fire District

1944 East Main Road  
P.O. Box 99  
Portsmouth, Rhode Island 02871-0099

(401) 683-2090  
Fax (401) 682-1550  
E-mail: info@portsmouthwater.org

October 7, 2015

Keith Hamilton, President  
Portsmouth Town Council  
2200 East Main Road  
Portsmouth, RI 02871

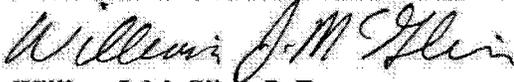
Re: Bill's Sales; Map 41, Lot 48 – Sound Variance

Dear President Hamilton:

The Portsmouth Water and Fire District's property located at 1944 East Main Road, Map 41, Lot 29B, houses the District's main office building and two water storage tanks. This District property abuts the entire south property line of the Bill's Sales property.

The Portsmouth Water and Fire District does not object to Bill's Sales request to the council for a commercial sound variance for sound beyond its property line of 75 decibels from 7:00am and 6:00pm during their business days.

Sincerely,  
PORTSMOUTH WATER AND FIRE DISTRICT



William J. McGlinn, P. E.  
General Manager and Chief Engineer

cc: Bob Lantz

RECEIVED  
PORTSMOUTH, R.I.  
2015 OCT - 7 | P 2:38  
JOANNE M. HOVER  
TOWN CLERK

**EXHIBIT H**

OBJECTION COMMENT

12/7/2015

RECEIVED  
PORTSMOUTH, R.I.  
2015 DEC -7 A 11:55  
JOANNE M. MOWER  
TOWN CLERK

BILL SALES REQUESTING-PROPOSED ADMENDMENT TO CHAPTER 257 OF THE PORTSMOUTH TOWN  
CODE-NOISE ORDINANCE-257-5 (L) and 257-18(C.-1.,2.,& 3.)

**FROM: Mr. and Mrs. Tarney Waring of 30 Crossing Ct., Portsmouth, RI 02871**

**We object to a noise ordinance admendment requested by Bill's Sales for the following reasons;**

1.) In 2010 (2yrs. AFTER THIS COMPANY BECAME COMMERCIALY ZONED) this company applied for a special use permit. The Company's written summary with application -GROUNDS FOR SPECIAL USE PERMIT stated: The activities conducted on site will not change, the development will not have a detrimental effect on the surrounding area and any objectionable feature such as noise, smoke or odor is controlled. The health, safety and welfare of the community are adequately protected. (copy is attached). The wood dried kiln which has an exhaust/fan with terrible odors WAS NOT included with this proposal and WAS NOT an activity on this property before this application (THIS IS A CHANGE IN ACTIVITIES), and was one of the main complaints (June/2012 police report #12-757-OF - attached), to the police department, because the excessive level of noise made it extremely difficult to sleep with at night from 2012 - 2014. During this period police obtained decimal readings which we now know that where up to at least 20 points over the allowed decimal limits.(The town mis-interpret some of the decimal readings but acknowledged at the end of the 2nd Municipal Court the correct interpretation of receiving land use noise and decimal readings -over 65db from 7am-10pm and over 55db from 10pm to 7am are violations). Police went to this business multiple times about these issues, including leaving the business with a complete copy of the noise ordinance which company said will review and keep on file (Nov 2013 police report #13-1693-OF @10:45 hr.- attached). On June 2012 this company told Police they will contact a tech to see if there is a quieter fan available. On a couple of different ocassions the company told police they forgot to activate switch to quiet fan, and on ocassion the company told police will make sure this won't happen again. Eventually this company was brought to Municipal Court for noise violation in April 2014 (see police reports attached # 12-757-OF, #13-114-OF, #13-1693-OF@02:43 hr. #14-378-OF).

2.) In the first Municipal Court (April 2014) this company stated to police that company significantly reduced the level of noise by modifying equipment. Based on this statement and new lower decimal readings on 6/25/14 (police report # 14-822-OF attached) the town prosecutor said will dismiss case. Also the Court told company at dismissal (7/16/14), if this company is back in Court on same issue, the Court can retry this particular case. (review 7/16/14 audio tape of court proceedings). Yet this kiln's fan/exhaust became an issue again and police obtained over the limit decimal readings in May/2015.(police report# 15-607-OF attached). This company's lack of consideration in generating disruptive, excessive noises after being made aware of multiple times and the company stating that company will stop making or reduce the making of noise only to restart the same noise all over again indicates that this company is forgetting that excessive noise is a serious hazard to public health and

welfare and the quality of life as stated in ordinance.

3.) The daytime noises and fumes issues would continue even more so after April 2014 to present. The police have at least 33 or so complaints referring to this company, and the company has been to 3 Municipal Courts (which the 3rd municipal court is in continuation to 12/16/15. Four of these charges on 6/24/15, 7/7/15, 7/8/15, and 9/2/15 was the result of 38 over the limit infractions over a 4 day period that the police dept. decided to charge only 1 for each day) and seven of those readings where over the commercial limit of 75db as well. Hearing these excessive noises consistently, smelling these odors and other fumes which I believe are a serious threat to our quality of life and quality of health and small children as well. The way our home is positioned on our property with the highest peak facing this company's northern side. Our south and east sides absorbs most of the shock from these noises . We have lived at this residence since 2003 and these where not issues in the past, even after becoming commercially zoned. But late 2011-2012 to present these consistent issues with the kiln, heavier trucks and machinery, diesel odors, high pitch screeching noises in addition to the excessive BANGING noises is a serious intrusion on our quality of life and health.

4.) The work area on the company's northern lot side is just to narrow and close to residential property for this type of noise or the type of equipment/trucks used at the northern property line especially with one of the company's trucks catching fire on June/12/2015 elsewhere. Also over the years of company's current ownership both of the property owners next to this northern work area has brought complaints to the town of Portsmouth about BILL SALES (See 1996 council meeting minutes-the Buddemeyers and 2012 to present- the Warings)This company has breached the noise ordinance continuously since 2012. Also the company is currently going to court for the same issue and now is asking to admend the town noise ordinance that's clearly beneficial to BILL SALES .This company with it's current ownership have recieved in the past special exception/uses including limited days/hours of operation of machinery that where put in place to safeguard against noise as conditions to zoning. I also believe that the company not complying to noise issues are of serious concern including around the clock processing of kiln dried wood emitting odors as well as noise from it's fan/exhaust from this processor which I believe contradicts zoning conditions. THESE CONDITIONS ARE ALREADY IN PLACE for this business and shouldn't be effected by admendment to the noise ordinance. **THIS BUSINESS HAS EXPANDED 2 TIMES since 2008 and yet is asking to expand a 3rd time.** (attached are recent photos taken through November 2015 of trucks/equipment being operated at the property line, 4/8/96 council meeting minutes, 4/18/96 grounds for special exception which also demostrates business activities then are much small scale compared to heavy scale now, @2008-05-07, and 4/18/96 decision).

Noting that Bill Sales have been operating over the commercial noise limits of 75db multiple times even after being cited and going to "3" Municipal Courts is certainly grounds to make sure that this business **proves that it can be in compliance first before any considerations of noise limits** and further more with the company making noise over the limits that they are requesting, the request has no merit.

Portsmouth Zoning Board of Review  
2200 East Main Road, P.O. Box 155  
Portsmouth, RI 02871

PETITION

Hearing Date: 4/15/10

Continuance Date: \_\_\_\_\_

Applicant: Robert A. Lantz  
Address: 1960 East Main Rd  
Portsmouth, RI 02871

Owner: same  
Address: \_\_\_\_\_  
\_\_\_\_\_

Subject Premises:

Address: 1960 East Main Rd.  
Portsmouth, RI 02871

Tax Assessor's Map 41 Lot: 48  
Zoning District: C-1

Present Use of Premises: retail sales with manufacturing and assembly  
Proposed Use of premises: retail sales with manufacturing and assembly

\_\_\_\_\_

\_\_\_\_\_

Zoning Ordinance Section: Special Use Permit: ART. V, E (14.3); ART. VI, C(1)  
Dimensional Variance: \_\_\_\_\_

Relief Requested: Dimensional Variance \_\_\_\_\_ Special Use  Use Variance \_\_\_\_\_

Lot Size: 43,958 sq.ft. Lot Coverage 9520 sq. ft. Lot Coverage 21.6%  
Lot Coverage Variance Requested: 0 %

Grounds for Variance: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

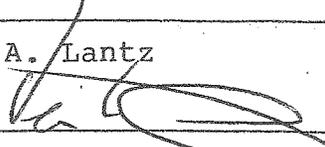
\_\_\_\_\_

Grounds for Special Use Permit: see attached

\_\_\_\_\_

\_\_\_\_\_

Robert A. Lantz  
by:   
Applicant: \_\_\_\_\_  
Vernon L. Gorton, Esq.

Robert A. Lantz  
by:   
Owner: \_\_\_\_\_  
Vernon L. Gorton, Esq.

### Grounds for Special Use Permit

Applicant operates an existing retail sales business with manufacturing, assembly and outdoor display of merchandise on the premises. The retail sales are conducted in a small, 400 square foot, wooden building and a separate building in the rear serves as the site of the manufacturing and assembly activities and firewood preparation and sales, with some operations being conducted outside. Applicant seeks to modernize the operation by demolishing the two existing buildings and shed and replacing same with 7900 + square foot building to house the sales, manufacturing and assembly activities. The new building will provide a more attractive streetscape and a safer, more efficient facility which allow more activities to be performed indoors.

The property is located in a commercial district on busy main thoroughfare. It is bounded on the north by an existing auto repair business and on the south by the Portsmouth Water & Fire District Administrative offices and water tank. Across East Main Road is a commercial strip consisting of a small restaurant, commercial offices, liquor store, retail establishment and auto sales and repair business. An eight (8) foot high stockade fence separates the business from residential neighbors to the north, lot 52 and applicant owns lot 51. The activities conducted on the site will not change. The development will not have a detrimental effect on the surrounding area and will be compatible with surrounding land uses. The proposal will not cause a nuisance or hazard, safe vehicular access and parking is provided and provisions are made for the solar rights of abutters. Any objectionable feature such as noise, smoke or odor is controlled and the proposal is in conformance with the Comprehensive Community Plan and the purpose and intent of the zoning ordinance. The health, safety and welfare of the community are adequately protected.

On 06/25 14 at 0900 hrs. I responded to Bill Sales located at 1960 East Main Rd. at the request of Cort Chappell to take sound meter readings on the property. There have been numerous past complaints regarding the sound levels of the machinery utilized to dry lumber on the premises. Mr. Waring of 30 Crossings Ct. was present, and has been the source of the previous noise complaints. According to owner Robert Lantz, modifications have been made to the machinery which he stated have significantly attenuated the sound levels.

Prior to the readings I ensured that the sound meter was calibrated and functioning properly. The first reading I took was on the north side of the property, directly adjacent to Mr. Waring's property. The ambient noise level at this location was 55 dB which can be attributed to traffic noise coming from East Main Rd.

The drying machine was now running, with its fan on the highest speed setting. From the same location, I now obtained a reading of 56dB. I then entered the building and took a reading as I stood next to the running machine. A reading of 72 dB was obtained while inside the building. The final reading was taken from the south side of the building, approximately 30 feet from the front of the building. A reading of 53 dB was obtained. At this location, the machine could not be heard; the reading of 53 dB was of the ambient noise coming from traffic on East Main Rd.

The allowable noise limit for this commercially zoned property is 75 dB at all times.

Also refer to 14-164-AR

At 0852 hrs. on 05/13/2015 I was dispatched to 30 Crossings Ct for a report of a possible noise ordinance violation. Upon arrival I met with the complainant Tarney Waring. Waring was reporting that a fan used by Bills Sales was disturbing and believed to be over the noise level. I took several readings on Waring's property, and received one reading of 70.5db and all of the other readings displayed "UR" which means that the noise level was under the set range of the meter which is 70db. It is unclear what had caused the initial reading of 70.5db, due to the fact that I moved closer to the noise emanating from the property and received the display of "UR". I explained to Waring that I would document my findings.

Also while at the residence Waring advised that he concerned due to the parking on Crossings Ct. He stated that Ray's Auto is parking vehicles on Crossings Ct and is concerned due to small children playing in the area. Waring stated that he feels the issue could be talked out with Ray's and a resolution could be found.

After speaking with Waring, I responded to Bill's Sales. The owner of the business, Robert Lantz, was not on scene. A message was left for him to contact me regarding the complaint.

Upon returning to HQ, I received a call both from Robert Lantz and Jonathan Taggart (owner of Ray's Auto). Both were advised of the complaint that had been filed, and both stated that they understood. John informed me that he would move some of the vehicles to avoid any further issues. No violation today.

Case Closed

\*\* Portions of this report have been redacted \*\*

NARRATIVE FOR PROBATIONARY PATROL OFFICER RYAN A GOYETTE

Ref: 14-378-OF

On 03/30/2014 at approximately 0011 hours, I Officer Goyette responded to 30 Crossings Ct for the report of a noise ordinance violation.

Upon my arrival I spoke with the complainant, Tarney Waring. Waring stated the fan at Bill's Sales turns on approximately every 3 minutes for about 5 seconds throughout the night. Waring stated the fan wakes him and his family up at night and believes the owner is leaving the fan on maliciously due to him reporting a complaint. While speaking with Waring I could hear the fan turning on and off, but was not able to take a noise reading due to the heavy rain. It should be noted that multiple noise complaints have been taken in the past regarding this issue. I then informed Waring that I would document the issue and he would hear from detectives about the on going issue.

file

NARRATIVE FOR DETECTIVE INSPECTOR MICHAEL J MORSE  
Ref: 13-1693-OF

November 22, 2013

1045 Hours

I traveled to Bill's Sales (1960 East Main Road) and hand delivered a complete copy of the noise ordinance to Mr. Lantz. Mr. Lantz took the noise ordinance for his files and stated he will review it.

\*\* Portions of this report have been redacted \*\*

*M. J. Morse  
11/22/13  
Noise*

*file*

January 30, 2013

0440 hrs

I was dispatched to 30 Crossing Court for a noise complaint. Upon arrival I met with the reporting party, Tarney Waring who informed me that the noise was coming from the roof of a commercial building, Bill's Sales. I heard the noise coming from the above mentioned property.

Using the Noise Meter, I took a total of four readings. I took the first reading from the front steps of the complainant's property and obtained a reading of 75.6. Secondly, I took a reading from the fence in the n/w corner of the Waring's property and obtained a reading of 75.8. I took the third reading from the parking lot of Rays Towing and obtained a reading of 75.2. Lastly I went to the Water Department and obtained a reading of 76.3. All four readings were in violation of the noise ordinance for commercial buildings.

It should be noted that PPD has responded to this residence on four separate occasions for the same noise complaint. Tarney Waring did not wish to complete a statement. I completed a noise complaint form which is attached to this report. A check of Bill's Sales revealed Robert Lantz to be the owner.

PPD

November 15, 2013

0243 hrs

I was dispatched to 30 Crossing Ct for the report of a noise complaint. Upon arrival, I spoke with the reporting party, Tarney Waring. Waring informed me that the noise was coming from Bill's Sales. There is a fan on the roof of the building which runs periodically throughout the night. It should be noted that Portsmouth Police Department has taken multiple noise complaints regarding this issue (refer to 12-757-OF , 12-1348-OF , 13-114-OF).

I was unable to take a reading with the noise meter due to calibration issues, however, the noise was loud. The owner of Bill's Sales is Robert Lantz.

On 11/15/2013 1007 hrs I responded to Bill's Sales and spoke with Lantz. Lantz stated that he forgot to shut the switch off before he left work on 11/14/13 at 1600 hrs. Lantz apologized for the incident and stated that it would not happen again.

\*\* Portions of this report have been redacted \*\*

*RP*

On 06-06-12 @ 1315 hours I spoke to Robert Lantz and informed him of the complaint. Lantz stated that the noise is a kiln fan that turns on once a certain temperature is reached in the building Lantz was informed that the noise is bothering his neighbors on Crossing Ct. and that a reading obtained from the property of the Portsmouth Water department was over the allowable DbA reading of 75. Lantz stated that he would be contacting the technician on the fan to determine if there is a quieter fan available.

I attempted to contact the complainant to update her on the issue. I attempted two calls to the number which was the only phone number the complainant provided. Both times I was informed by an automated message to redial the number with the area code to leave a message. No message was able to be left.

No noise violation occurred on residential property or on that of the complainant's property.

No further investigation necessary.

\*\* Portions of this report have been redacted \*\*

Duplicate

NB 4 - Request Approval of Expenditures/GFA

A motion by Mr. Pappas, seconded by Mrs. Edwards, to pay the \$109.67 and that the Finance Director charge to the appropriate account.

A motion to amend by Mrs. Edwards, seconded by Mr. Pappas, to put \$500. in the Glen Farm Authority account from the Town Council Emergency Fund.

All voted in favor of the amendment.

All voted in favor of the main motion as amended.

NB 5 - Noise Complaint & Enforcement Request/1960 East Main Road

Atty. Eric Chappell represented the Buddemeyers.

Vernon Gorton, Esq. represented Robert Lantz - Bill's Sales

DISCUSSED various complaints and no action taken as a request for reconsideration is before the Zoning Board of Review on April 18th.

NB 6 - Request Sandy Point Beach for Catamarran Regatta

A motion by Mr. Pappas, seconded by Mrs. Edwards, to approve June 15 & 16, 1996 provided it is coordinated with the Town Administrator, Harbormaster, Portsmouth Action for Youth, Fire & Police Departments. The Town be named as insured on their insurance policy.

A motion to amend by Mr. Gavin, seconded by Mr. Pappas, that it also be reviewed by the Finance Director and Town Solicitor.

All voted in favor of the amendment.

All voted in favor of the main motion as amended.

NOTE: The parking fee to be coordinated with PAY.

RECESS: 8:43 p.m.

RETURN: 8:55 p.m.

NB 7 - Request Fee Waiver GMHA, May 17, 1996, Junior Prom

A motion by Mr. Pattarozzi, seconded by Mr. Pappas, to grant the fee waiver subject to Glen Manor House Authority approval. All voted in favor of the motion.

NB 8 - Request Donation - 3 PHS Gymnasts - L. Oliveira, J. Borden, M. McHenry

A motion by Mr. Pappas, seconded by Mr. Pattarozzi, to donate \$50. each from the Town Council Emergency Fund. All voted in favor of the motion.

GROUNDS FOR SPECIAL EXCEPTION OR VARIANCE  
AND/OR RECONSIDERATION OF CONDITIONS

Petitioner operates Bill's Sales at 1960 East Main Road Portsmouth. The business constructs and sells picnic tables, lawn chairs, storage sheds, well houses, etc. and also sells a variety of lawn ornaments and decorations. In addition, the business also cuts, stores and sells firewood.

In August of 1995 Petitioner acquired a combination crosscut saw and log splitter which cuts the logs into designated lengths and then splits the cut length, a process which was previously performed by hand with chainsaws and a mobile log splitter.

Petitioner applied for, and in October 1995, was granted, a variance from the zoning ordinance to construct a 60' X 20' pole barn, ten (10) feet closer to his northern property line than zoning allows. The purpose of the barn is to house the newly acquired equipment. A condition of the grant of the variance was that "no machinery be operated on Sundays and holidays and that the hours of operation be limited to 8:00 a.m. to 7:00 p.m.". Petitioner has taken no action in furtherance of the variance due to those conditions. Petitioner understands that said restrictions were imposed to guard against any undue noise production.

Petitioner submits that it is not economically or logistically possible to operate his enterprise under such conditions and requests that the Board reconsider and approve the variance request without conditions or upon conditions that the log cutting and splitting equipment be completely enclosed and that the northern wall of the structure be insulated to protect against noise disturbance. In the absence of such relief Petitioner's only alternative will be to remove the structure altogether and perform all work outside while trying to devise some method of protecting the equipment from the weather.

Petitioner submits that completion of construction of the pole barn subject to the conditions set forth above would not be detrimental to the surrounding area or result in a nuisance or hazard, and further, the proposed conditions would afford adequate protection to surrounding properties from objectionable features, would conform to the comprehensive plan and would not be injurious to the public health, safety or welfare.



# Town of Portsmouth

Post Office Box 207 / Portsmouth, Rhode Island 02871

Board of Review

(401) 683-3611

Petition of Robert A. Lantz  
1960 East Main Road  
Map 41, lot 48  
Zoned: R-20

### DECISION

Petitioner moves for reconsideration of a prior decision of the Board made October 25, 1995, by which Petitioner was granted a dimensional variance subject to conditions. He asks that the conditions be removed.

On April 18, 1996, the Board of Review voted unanimously to decline to hear the petition. Members participating were Chairman Wanda Coderre, Vice-chairman Robert D. Soares, Roy R. Twaddle, John Borden and James Edwards. The decision was based on the advice of the town solicitor that the Board has no jurisdiction to rehear a petition.

  
\_\_\_\_\_  
Robert D. Soares  
Acting Secretary

Dated: 4/30/96

962721 Portsmouth, R.I.  
Received for record 8-6-96  
at 1:15 o'clock P M  
and Recorded in Book No. 469  
Page 328

Town Clerk

TOWN OF PORTSMOUTH, RI  
ZONING ORDINANCE AMENDMENT

#2008-05-07 A

An Ordinance in Amendment to the Zoning Ordinance adopted effective July 1, 1994:

Be it ordained by the Town Council of the Town of Portsmouth as follows:

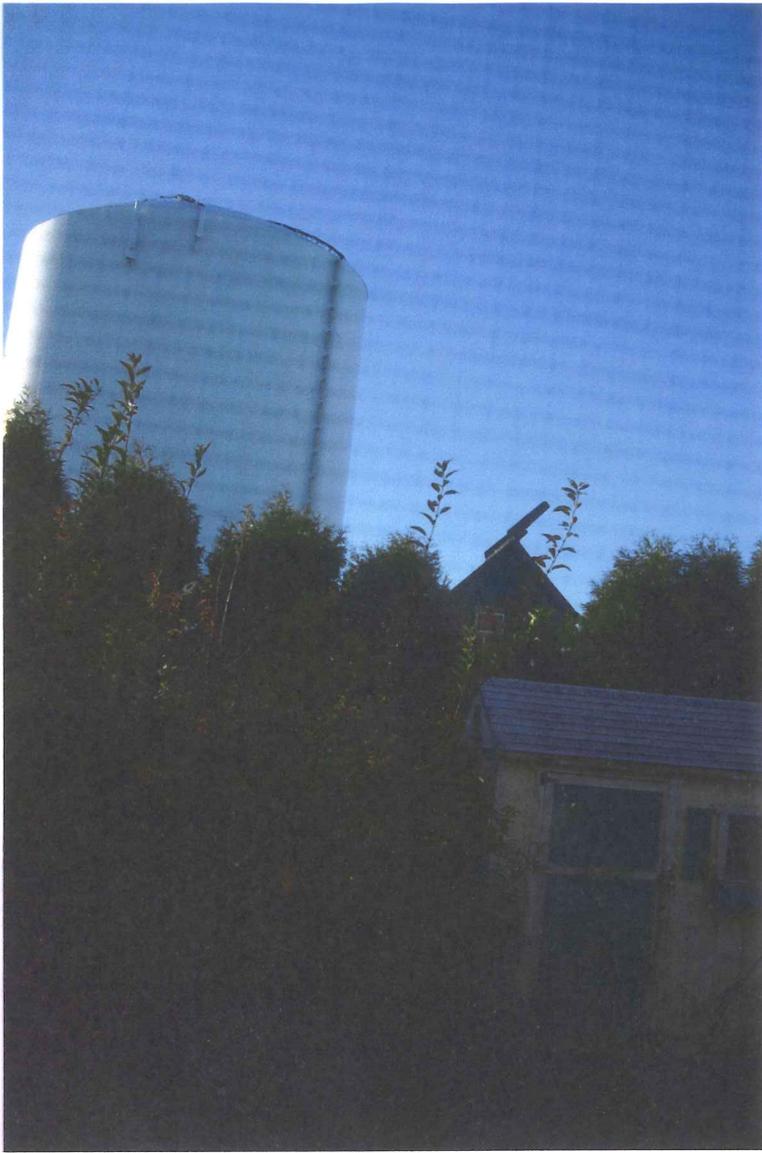
Section 1: "the Zoning Ordinance of the Town of Portsmouth, as amended, effective July 1, 1994, is hereby further amended as follows:

1. Article III, Section B4 is hereby amended to remove Lot 29A and Lot 48 in their entirety and the southerly 96 foot portion of Lot 51 on Map 41 from the designation of Residential and said Lot 29A and Lot 48, in their entirety, and the southerly 96 foot portion of Lot 51 on Map 41 shall hereafter be designated as Commercial subject to the following conditions:

The owner(s) of Lot 48 and Lot 51 on Map 41, including their successors and assigns, shall:

- a. Erect an 8 foot high opaque fence along the northerly boundary of said Lot 48, which boundary is common with the southerly boundary of Lot 52. Said fence shall continue in a westerly direction until it meets an existing shed on Lot 51. Furthermore, an existing 6 foot fence shall remain and continue to be maintained by the owner(s) of said Lot 48 and Lot 51.
- b. The firewood processor used in the existing commercial business located on Lot 48 shall not be operated before 9:00AM on Saturday mornings from May 1<sup>st</sup> to September 1<sup>st</sup> and shall not be operated before 8:00AM in the morning on the Saturdays of the remaining calendar year.
- c. The owner(s) of said Lot 48 and Lot 51 shall not install any new exterior lighting higher than 20 feet, which, if installed, shall be shielded and directed downward to illuminate the subject premises and not the adjacent neighborhood properties.
- d. The southerly 96 foot portion of Lot 51 shall be utilized only as storage accessory to the existing business presently known and being operated as Bill's Sales. Said accessory storage shall not be over 8 feet high, however, it may also allow limited parking of vehicles as it is presently utilized. If the present business operated and known as Bill's Sales shall cease, then said







RECEIVED  
PORTSMOUTH

ADDENDUM TO OBJECTION COMMENT DATED 12/7/15

2016 FEB - 11 P 12:00

2/1/2016

RE: ROBERT LANTZ, INC of Bill's Sales- REQUESTING- PROPOSED AMENDMENT TO CHAPTER 257  
OF THE PORTSMOUTH TOWN CODE -NOISE ORDINANCE- 257-5 (L) AND 257-18 (C.-1.,2.,& 3.)

FROM: MR. AND MRS. TARNEY WARING OF 30 CROSSING CT., PORTSMOUTH, RI. 02871

**We object to any noise ordinance amendment or noise variance requested by Robert Lantz.**

One of the main reasons is that the company's work area on their northern property side which abuts our southern property side is just too narrow, congested, and too close to our home for this kind of noise including some of these heavy trucks which are 18 wheels. (even if the 14' wall was completed)

By forcing the noise to a particular residential property would seriously jeopardize our health, welfare, and quality of life, that other's in the community don't have to be subject to, is of huge concern.

Moving a structure a little closer to limits than allowed by ordinance is one thing but **noise has extreme detrimental effects** which is one of the statements in this company's petition for a special use - indicating: activities conducted on site will not change -*Development will not have a detrimental effect and noise, smoke or odor is controlled.* **Also company did not highlight fact that company operations are Retail / Wholesale with manufacturing. SOME OF THIS COMPANY'S BUSINESS USES ARE NOT PERMITTED IN A COMMERCIAL DISTRICT INCLUDING VAPORS & OFFENSIVE ODORS FROM KILN WHICH OPERATES 24/7! AND EXCESSIVE NOISE BEYOND PROPERTY LINE. THIS NOISE BELONG IN I-L or I-H INDUSTRY DISTRICT (RI 2015 annual report attached) Zoning Ordinance Article #5 Sections with uses also attached.**

Within the last few weeks there have been a difference in the majority of previous noise issues. If company stays true to control noise coupled with a few suggestions to help:

\*Dumps inside building with Western overhead garage door closed during noise (or soundproof the bed of trucks to minimize sound)

\*Oil machines/vehicles in question of high pitch screeches

\*complete 14' wall

\*move dumpster from Northern side to Southside

\*address Zoning issues

Then there should not be any need to change ordinance or apply variance.

2/1/16  
letter w/10  
Add'l Attach

**COMMERCIAL DISTRICT C-1** is established to provide areas for commercial establishments and serve community and town-wide shopping and service needs.

**TOWN CENTER DISTRICT - TC** is established to provide for a pedestrian-friendly commercial district that is more densely developed than the Commercial C-1 zone. Developments in the Town Center District shall, to the extent possible, contribute to an atmosphere of a traditional New England town center. While allowing mixed uses and planned unit developments, this district is more restrictive than the C-1 district in terms of discouraging or prohibiting uses that are not conducive to its purpose. Other than prohibited uses, all proposed uses in the TC district are subject to special use permits and design review.<sup>1</sup>

**INDUSTRIAL DISTRICTS** are established to encourage intensive industrial and business activities, with proper safeguards for protecting nearby residential areas and environmentally sensitive areas.

**HEAVY INDUSTRIAL I-H** is established to provide for levels of noise, vibration, smoke, odor and other evidence of industrial activity commensurate with State and Federal standards and other performance standards that may be set by the Town.

**LIGHT INDUSTRIAL I-L** is established to provide for a lesser level of noise, vibration, smoke, odor and other evidence of industrial activity commensurate with performance standards that may be set by the Town.

**WATERFRONT DISTRICT WD** is established primarily for businesses catering to marine and marine-related activities.

**OPEN SPACE AND PUBLIC LANDS OS** is established for all lands which shall be dedicated to open space, recreation, conservation, or public uses.

**REDEVELOPMENT DISTRICT** is existing or formerly property of the U.S. Navy generally known as the tank farms.

### 3. IDENTIFICATION OF CERTAIN DISTRICTS

Further identification of boundaries for certain districts is established by the Zoning Map and Lot numbers as follows:

**R-60** is established by the Zoning Map and specific lot numbers as follows:

#### **R-60 DISTRICT LOTS<sup>2</sup>**

##### **MAP 13**

LOT: Founders Grove (junction of Route 138 & Boyd's Lane, State property).

##### **MAP 28<sup>3</sup>**

LOT: 71 (500 feet surrounding St. Mary's Pond, Sisson Pond and Lawton Valley Reservoir, measured landward from the high water line, not in Open Space District).

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## Timeline Photos

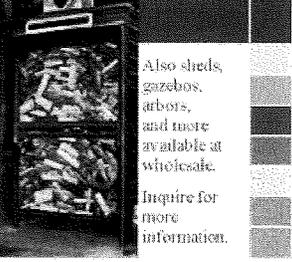
## Timeline Photos

[Back to Album](#) · [Bill's Sales's Photos](#) · [Bill's Sales's Page](#)  
[Previous](#) · [Next](#)



In 1973 William F. Lacey opened Bill's Sales at its present location on East Main Rd. After working in construction and as a truck driver for many years, Bill decided to start his own business. During the stormy years of the 1970's Bill began selling and delivering firewood. This was a family business, his mother took care of all of his bookkeeping and helped by answering the phone. His three young nephews worked with him part time, after school and during summer vacations. Bill continued to run the business until his death in 1991.

The family kept the business going until Bill's nephew Bob decided to take over Bill's time. Since taking over in 1990 Bob has expanded the size of storage stack to include 7 different styles. Bob has also begun to sell gazebos, arbors and other yard accessories. As the word has increased over the years Bob has been able to hire 5 employees, including two family members.



Also sheds, gazebos, arbors, and more available at wholesale. Inquire for more information.

Cord Prices - Kiln Dried \$325.00 (oak)  
 Green \$220.00 (oak, hickory, maple, birch, ash)  
 4 Cord Minimum - Free Delivery - Up to 75 miles from Portsmouth, RI  
 1960 East Main Road, Portsmouth, RI 02871  
 401-683-4017

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Drag the corners of the box above to crop your new profile photo.

Saving your new profile picture



Album: [Timeline Photos](#)  
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October 11, 2012 [Sign Up](#) [Log In](#) [Messenger](#) [Facebook](#) [Lite](#) [Mobile](#) [Find Friends](#) [Badges](#) [People](#) [Pages](#) [Places](#) [Games](#)  
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 English (US)

<b>State of Rhode Island and Providence Plantations</b> <b>Office of the Secretary of State</b>	Fee: \$50.00
Division Of Business Services 148 W. River Street Providence RI 02904-2615 (401) 222-3040	

<b>ANNUAL REPORT YEAR:</b> <u>2015</u>		
<b>1. Corporate ID No.</b> <u>000113309</u>		
<b>2. Name of Corporation</b> <u>Robert Lantz, Inc.</u>		
<b>3. Street Address Principal Business Office:</b> No. and Street: <u>1960 EAST MAIN ROAD</u> City or Town: <u>PORTSMOUTH</u> State: <u>RI</u> Zip: <u>02871</u> Country: <u>USA</u>		
<b>4. Business Phone No.</b> <u>401-683-1017</u>		
<b>5. State of Incorporation</b> State: <u>RI</u>		
<b>6. Brief Description of the Character of Business Conducted in Rhode Island</b> <u>THE PURCHASE, PROCESSING AND SALE AND DELIVERY OF FIREWOOD AT WHOLESALE OR RETAIL, THE DESIGN, MANUFACTURE, SALE AND DELIVERY OF CUSTOM WOOD PRODUCTS</u>		
<b>7. Names and Addresses of the Officers and Directors:</b>		
<b>Title</b>	<b>Individual Name</b>	<b>Address</b>
	<small>First, Middle, Last, Suffix</small>	<small>Address, City or Town, State, Zip Code, Country</small>
PRESIDENT	ROBERT A LANTZ	74 FOUNDERS AVENUE PORTSMOUTH, RI 02871- USA

Class of Stock	Series of Stock	Par Value Per Share	Total Authorized Shares <i>Number of Shares</i>	Total Issued and Outstanding <i>Num of Shares</i>
STK		\$0.0000	1,000.00	1000

9. This report must be executed on behalf of the corporation by an authorized representative. If the corporation is in the hands of a receiver or trustee, this report must be executed on behalf of the corporation by the receiver or trustee.

**Signed this 23 Day of September, 2015 at 1:41:36 PM.** *This electronic signature of the individual or individuals signing this instrument constitutes the affirmation or acknowledgement of the signatory, under penalties of perjury, that this instrument is that individual's act and deed or the act and deed of the corporation, and that the facts stated herein are true, as of the date of the electronic filing, in compliance with R.I. Gen. Laws § 7-1.2.*

By ROBERT A LANTZ  
Signature of Authorized Representative of the Corporation

Form No. 630  
Revised 09/07

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# Town of Portsmouth

Post Office Box 207 / Portsmouth, Rhode Island 02871

Board of Review

(401) 683-3611

Petition of Robert A. Lantz  
1960 East Main Road  
Map 41, Lot 48  
Zoned: R-20

### DECISION

Petitioner conducts a business that is a pre-existing non-conforming use on the above property. He seeks a variance in the application of the terms of the Portsmouth Zoning Ordinance to build a pole barn ten feet closer to his north boundary than the ordinance allows.

On October 25, 1995, the Board of Review voted unanimously to grant the requested variance subject to the condition that no machinery be operated on Sundays and holidays and that hours of operation be limited to 8:00 a.m. to 7:00 p.m. The condition was approved 4-1. Voting in the affirmative were Chairman Wanda Coderre, Secretary Kathleen M. Melvin, Roy R. Twaddle and John Borden. Vice-chairman Robert D. Soares voted against the condition. The Board imposed the condition because the business is located in a residential zone.

The same Board members took part in the vote to grant the variance. The Board found that the business has operated on the subject property for several years. The lot is long and narrow. Therefore there would be a problem of maneuverability for trucks were the building further from the lot line. Petitioner has agreed to put a gutter on the building to protect abutting property. There will be adequate access for emergency vehicles.

The Board concluded that Petitioner demonstrated that the zoning ordinance restriction from which he seeks relief would present him with a hardship amounting to more than a mere inconvenience were he not allowed to build the proposed structure to store his equipment.

961235  
Portsmouth, R.I.

*Kathleen M. Melvin*  
Kathleen M. Melvin  
Secretary

Received for record  
at 3:36 P.M.  
Dated: April 16, 1996  
and Recorded in Book No. \_\_\_\_\_  
Page \_\_\_\_\_

Town Clerk

**HALF-STORY**

That portion of a building next beneath a sloping roof and in which there are less than 4 feet vertically between the top of the floor and the intersection of the bottoms of the rafters with the interior faces of the wall.

**HALFWAY HOUSES.**

A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

**HARDSHIP.**

- a. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
- b. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or more valuable after the relief is granted shall not be grounds for relief.

**HAZARDOUS USE.**

Any use which is offensive or noxious by reason of potential of fire, noise or vibration, dust, gas, fumes, odor, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic radiation. Any use which is potentially hazardous to health or safety because of danger of flooding, inadequacy of drainage or inaccessibility to fire fighting apparatus or other protective service or any use which creates excessive noise beyond the property line. Any use which emits hazardous materials, as defined by the State and EPA, into the air or water.

**HOME OCCUPATION.**

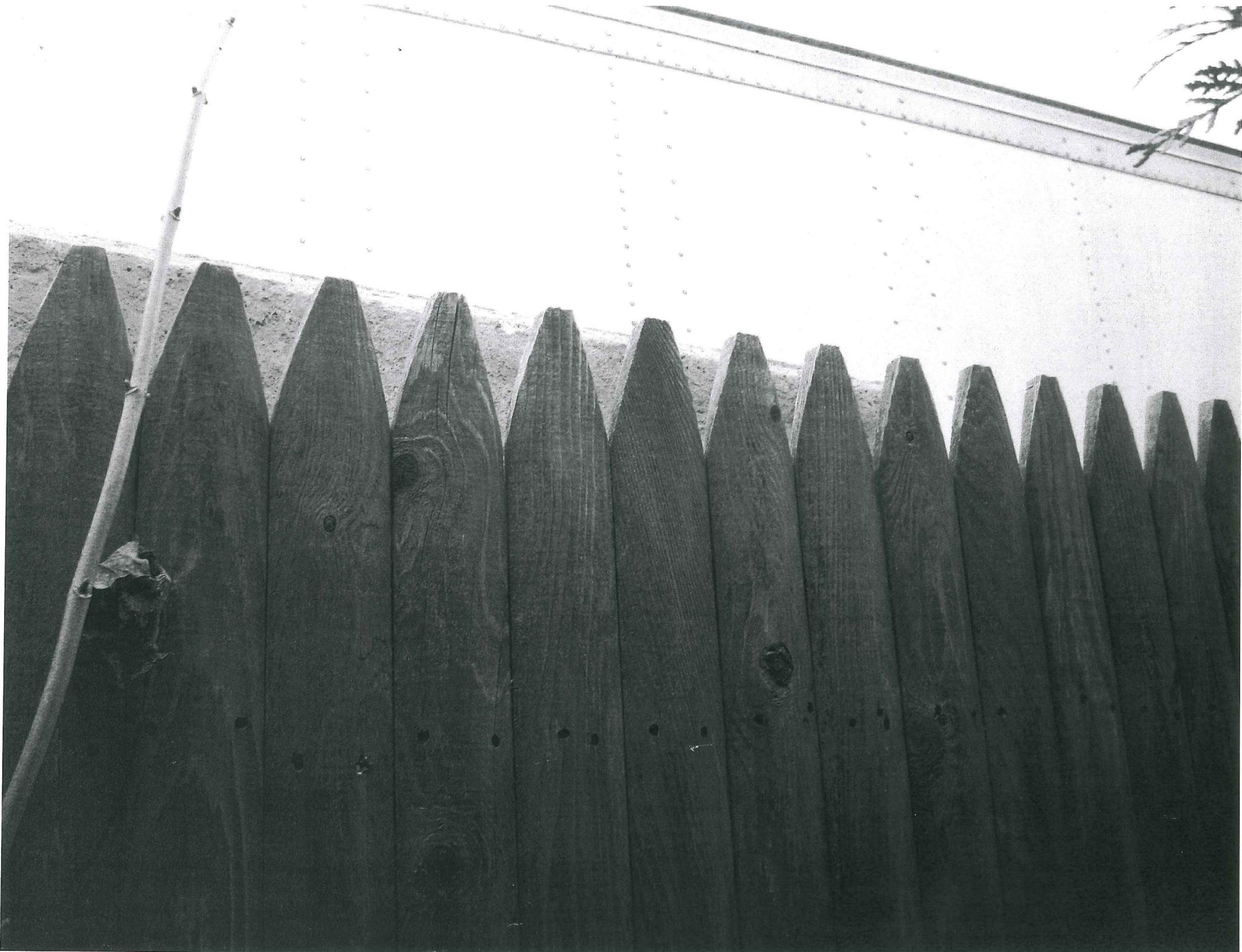
Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit. An occupation or a profession which:

- a. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- b. Is carried on by a member of the family residing in the dwelling unit;
- c. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- d. Conforms to the following conditions:
  - (1) Performed by the resident and using no more than 150 sq. ft. of floor area and such activity shall not be visible from a lot line.
  - (2) There shall be no exterior display, no exterior sign (except as permitted under Article IX.), no exterior storage of material and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  - (3) No vibration, smoke, dust, odors, heat or glare or offensive noise shall be produced.
  - (4) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

3. Bottling of beverages.	N	N	N	N	N	S	Y	Y	N	N
4. Plumbing, electrical or carpentry shop or other similar service or repair establishment.	N	N	N	N	N	S	Y	Y	Y	N
5. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health, provided that food or animal waste processing is not less than fifty (50) feet from the property boundary <sup>12</sup> .	N	N	N	N	N	N	S	Y	Y	N
6. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health with no outside storage of goods or materials.	N	N	N	N	N	N	S	Y	Y	N
7. Wholesale business and storage in an enclosed and roofed structure.	N	N	N	N	N	S	S	Y	Y	N
8. Wholesale business, including outdoor storage.	N	N	N	N	N	N	S	S	S	N
9. Trucking terminals.	N	N	N	N	N	N	S	S	N	N
10. Extractive industries and earth removal. (See Ordinance No.107)	N	N	N	N	N	N	S	S	N	N
11. Planned Corporate Development as approved by the Planning Board. <sup>13</sup>	N	N	N	N	N	N	Y	Y	Y	N
<b><u>G. INDUSTRIAL, WHOLESALE AND TRANSPORTATION USES</u></b> <b><u>(cont.)</u></b>	<b><u>R10</u></b>	<b><u>R20</u></b>	<b><u>R30</u></b>	<b><u>R40</u></b>	<b><u>R60</u></b>	<b><u>C-1</u></b>	<b><u>I-L</u></b>	<b><u>I-H</u></b>	<b><u>WD</u></b>	<b><u>TC</u></b>
12. Planned Industrial Development as approved by the Planning Board. <sup>14</sup>	N	N	N	N	N	N	N	Y	N	N







# Portsmouth Water and Fire District

---

1944 East Main Road  
P.O. Box 99  
Portsmouth, Rhode Island 02871-0099

(401) 683-2090  
Fax (401) 682-1550  
E-mail: info@portsmouthwater.org

October 7, 2015

Keith Hamilton, President  
Portsmouth Town Council  
2200 East Main Road  
Portsmouth, RI 02871

Re: Bill's Sales; Map 41, Lot 48 – Sound Variance

Dear President Hamilton:

The Portsmouth Water and Fire District's property located at 1944 East Main Road, Map 41, Lot 29B, houses the District's main office building and two water storage tanks. This District property abuts the entire south property line of the Bill's Sales property.

The Portsmouth Water and Fire District does not object to Bill's Sales request to the council for a commercial sound variance for sound beyond its property line of 75 decibels from 7:00am and 6:00pm during their business days.

Sincerely,  
PORTSMOUTH WATER AND FIRE DISTRICT



William J. McGlenn, P. E.  
General Manager and Chief Engineer

cc: Bob Lantz

RECEIVED  
PORTSMOUTH, R.I.  
2015 OCT -7 P 2:38  
JOANNE M. MOWER  
TOWN CLERK



*Portsmouth Concerned Citizens*

RECEIVED  
PORTSMOUTH, R.I.  
2016 FEB - 1 | A 11: 31  
JOANNE M. MOWER  
TOWN CLERK

February 1, 2016

Ms. Joanne Mower  
Town Clerk  
2200 East Main Rd.  
Portsmouth, RI 02871

Dear Ms. Mower,

Please place the following item on the agenda for the February 8, 2016 Council meeting:

Request the Council withdraw the resolution to the Portsmouth  
Legislators to extend Council authority over the Tax Stabilization  
Program.

The resolution was requested as New Business Agenda item 6 at the November 9, 2015 meeting.

Thank You,

Larry Fitzmorris

**NEW BUSINESS**

NB 1 - Invitation to Attend the Restoration Advisory Board (RAB) Upcoming Meetings for the Navy's Environmental Restoration Program (ERP) at Naval Station Newport

Ms. Kirschner provided an overview of the Restoration Advisory Board and invited the Town Council and townspeople to attend the meetings.

NB 2 - Request Damages be Paid for Vehicle Accident that Occurred at Transfer Station

A motion by Ms. Pedro, seconded by Mr. Gleason to table this item. All voted in favor of the motion.

NB 3 - Request Approval to Hire a Seasonal Assistant to the Harbormaster

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

NB 4 - Joint Petition from National Grid and Verizon Requesting Permission to Locate a New JO Pole on Brown Terrace

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

NB 5 - Request Approval for Additional Nyhart Services on Retiree Health Modeling

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

**NB 6** - Request Council to Instruct Our Legislators to Introduce Legislation that will Authorize the Portsmouth Town Council to Enact a Tax Stabilization Program for All Qualified Portsmouth Businesses in All of Portsmouth

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve the Tax Stabilization Plan as presented. The motion passed 6-1 with Ms. Pedro opposed. (Mr. Clark and the Town Solicitor will draft the letter for the Council President's signature and send it to our legislators)

NB 7 - Request Permission to Set a Date for a Public Hearing to Amend Chapter 274 of the Town Code to Allow the Town Clerk's Office to Issue Special Event Peddler's Licenses Without Town Council Approval

A motion by Mr. Robicheau, seconded by Mr. Seveney, to approve the Clerk's request, with a date uncertain at this time and whenever it is brought back we will vote on it. (The Solicitor to meet with the Clerk to work out new language.) All voted in favor of the motion.



# Town of Portsmouth

2200 East Main Road / Portsmouth, Rhode Island 02871  
www.portsmouthri.com

**William E. Clark**

Director of Business Development

Office: (401) 643-0382

Fax: (401) 683-6804

email: wclark@portsmouthri.com

November 2, 2015

Honorable Town Council

Keith E. Hamilton, President

## Re. PORTSMOUTH TAX STABILIZATION PROGRAM

The Portsmouth Tax Stabilization Program was first enacted in 1994. It was created in conjunction with portions of Portsmouth and Tiverton being designated a State Enterprise Zone. The Enterprise Zone program offered businesses, or their owners, living within an Enterprise Zone, tax credits from the State for adding new jobs, and or donations to certain government projects as well as providing loans. As part of approving an Enterprise Zone, the State required participating municipalities also contribute assistance to attract and support business expansion within the Zone. Tax Stabilization was our offering to support local business growth.

The Portsmouth Tax Stabilization Program has been very successful. It has been an important assist to many businesses. A critical time for a business is when they are starting a new construction or expansion project. The capital outlay for planning, designing, obtaining approvals and permits even before ground is broken can be significant. New construction projects usually include taking on new debt. When construction is complete and increased assessed property values kick in, the partial tax exemptions during the first years can play an important role in easing the cash flow of a business during a critical time. The increase in taxes is stabilized over six years.

For construction of a new facility, expansion or, renovation of an existing facility, or leasehold improvements, the percentage of additional taxable assessment attributed to the project to be exempted from taxes in the years following construction is:

<u>Year</u>	<u>% Exempt From Tax</u>
1	100%
2	80%
3	60%
4	40%
5	20%

In year 6 and thereafter, the new full assessed values will be taxed at the normal rate for the Town. Tax Stabilization is not applied to the value of the land, only to the additional assessed value of the new construction.

November 2, 2015

**Re. PORTSMOUTH TAX STABILIZATION PROGRAM**

Since RI tax code changes in 2010, most of the tax credits available from the State for businesses in an Enterprise Zone have either been greatly reduced or eliminated. This year's State budget again further eliminated companies eligible to participate in the EZ program.

While the Rhode Island General Law originally creating the State EZ is still law, in reality, the EZ program is dead. At some point the legislation creating the EZs will be rescinded.

The Portsmouth Tax Stabilization Program includes a stipulation that, "Property is eligible for the full term of these Tax Stabilization benefits provided that actual participation and use of the program (not just application) begins during calendar years in which Portsmouth is part of the R.I. Enterprise Zone program." If the EZ legislation is officially canceled or the law is changed to delete Portsmouth from future designation as an EZ, our Tax Stabilization program could be voided.

Tax Stabilization has been a welcomed assist for many businesses in the sixteen years it has been in effect. On average, there have been twenty-three companies being helped each year; from a high of thirty in 2010 to our current low of twelve. By far the majority of participants have related to new buildings that have been built since 1995.

I recommend that the Portsmouth Tax Stabilization program be revised to make it available throughout all Portsmouth, to all legally permitted commercial/industrial projects. Thus we would be supporting all business projects in Town, not just those that happen to be located in the areas that have been part of the EZ. It is really not that much of an expansion of eligible properties as the areas of Town that are in our EZ cover most of the land that has historically been zoned commercial or industrial.

I recommend that the Council instruct our legislators to introduce legislation that will authorize the Portsmouth Town Council to enact a tax stabilization program for all qualified Portsmouth businesses in all of Portsmouth. A suggested draft of proposed legislation is included as guidance for our legislatures.

Respectfully yours,



William E. Clark

Attach. - 5

**THIS IS THE CURRENT RIGL AUTHORIZING TAX STABILIZATION FOR ENTERPRISE ZONES -**

**42-64.3-9 Standards for business property tax adjustment.** – Notwithstanding the provisions of chapters 3 – 9 of title 44, real and tangible property taxes in enterprise zones for qualified businesses may be exempted or stabilized upon authorization of the city or town council. Nothing in this section shall be deemed to permit the exemption or stabilization for any manufacturing or commercial concern locating from one city or town within the state to another.

**NEW RIGL “PROPOSED” AUTHORIZING TAX STABILIZATION FOR ALL OF PORTSMOUTH -**

**42-64.X-X Standards for business property tax adjustment.** – Notwithstanding the provisions of chapters 3 – 9 of title 44, the Portsmouth Town Council may authorize real and tangible property taxes to be exempted or stabilized for legally permitted commercial or industrial businesses that construct a new facility, renovate or expand an existing facility or add leasehold improvements. Nothing in this section shall be deemed to permit the exemption or stabilization for any manufacturing or commercial concern locating from one city or town within the state to another.

**\*CURRENT TEXT ONLY FOR EZ**

Property Tax Stabilization Program – as amended December 8, 2014

**RESOLUTION of the Town Council of the Town of Portsmouth, Rhode Island re-authorizing and revising tax stabilization in the Enterprise Zone:**

---

The Town Council, acting pursuant to the authority granted under Section 42-64.3-9, General Laws of Rhode Island, 1956, 1993 Reenactment, as amended, hereby resolves that the following regulations authorizing tax stabilization for business located in the Enterprise Zone are established, effective immediately:

**Eligible Facilities:**

All legally permitted commercial and industrial facilities within the Enterprise Zone are eligible. The Enterprise Zone in Portsmouth is composed of Census Tracts 401.03 (Aquidneck Island portion only) and portions of Census Tract 401.01 and 401.02, and may be described generally as the area of Portsmouth on Aquidneck Island:

- All of Island Park;
- West of East Main Road, except North of Route 24 and East of Boyds Lane;
- East of East Main Road from Park Avenue to Hargraves Drive;

No manufacturing or commercial concern relocating from one city or town within the State of Rhode Island to Portsmouth shall be eligible for this program in the year of relocation.

**The Following Tax Schedule is to be used:**

For expansion of an existing facility, renovation of an existing facility, construction of a new facility, or leasehold improvements in the Enterprise Zone, the percentage of new added taxable assessment shall be exempt as follows:

<u>Year</u>	<u>% Exempt From Tax</u>
1	100%
2	80%
3	60%
4	40%
5	20%
6	0%

In year 6 and thereafter, the new value will be taxed at the normal rate for the Town.

**General Rules and Standards:**

Tax Stabilization will not relate to the value of land, but to the value of building improvements only, nor does it change or affect any pre-existing valuation. Tax Stabilization shall apply to all value not assessed as of the previous December 31, regardless of whether the building permit therefore was issued before or after the beginning of the year. New and expanding businesses must apply for designation with the Enterprise Zone Coordinator in the same year as the issuance of a building permit. Tax Assessment and collection practices will be the same as for any other property, except for a final calculation on the portion of exempt from taxes.

In no event shall total assessment on which the exemptions are based exceed the then current assessment on the improvements. Leasehold improvements will be classified as tangible personal property in order to qualify, as long as they are attached to the building.

**\*CURRENT TEXT ONLY FOR EZ**

Property Tax Stabilization Program – as amended December 8, 2014

The only requirements to benefit from this program are for the business to be located in the Enterprise Zone, be current on property tax payments, and be in conformance with the zoning ordinance. There are no thresholds for minimum size or value, or a minimum number of jobs to be created.

Property is eligible for the full term of these Tax Stabilization benefits provided that actual participation and use of the program (not just application) begins during calendar years in which Portsmouth is part of the R.I. Enterprise Zone program.

**Other Conditions of Participation:**

In the event that the applicant defaults on any quarterly tax or other payment due the Town on property receiving exemption hereunder for a period of more than 45 days (real estate, motor vehicle, or personal property), the stabilization shall cease immediately. Notice of delinquency shall be sent to property owner by registered mail not more than 30 days after delinquency.

Tax stabilization is transferable to new owners of eligible property, to the extent that only the remaining balance of eligible time a property may be in the tax stabilization program is transferable, or a pro rata portion of the original property thereof in the case of a conversion and transfer of property to condominium ownership, or other split ownership, provided that payment of property taxes due on said property in the Tax Stabilization program are not delinquent, and that the new and/or prior owner are not delinquent on payment of other taxes to the Town. All transfers of continuing participation must be registered with and approved by the Director of Business Development. The Director of Business Development will forward notice of eligible transfers of participation to the Tax Assessor.

**Procedures:**

1. Business or property owners planning to utilize this program shall, prior to or at the time of obtaining a building permit, register with the Enterprise Zone coordinator, the Director of Business Development.
2. The Building Inspector shall immediately forward a copy of the approved building permit to the Tax Assessor and the Enterprise Zone Coordinator. The Enterprise Zone Coordinator shall immediately notify the Tax Assessor of the applicant's desired participation in the Tax Stabilization program.
3. The Tax Assessor will thereupon conduct an inspection of the subject property, at his/her discretion, in order to determine assessed valuation of the property prior to improvement.
4. Upon completion of the improvement or at the request of the applicant, on December 31, of the first tax year, the Tax Assessor or person designated by him shall inspect the subject property and determine the taxable assessed value added to the property. He will thereupon notify the applicant and the Enterprise Zone Coordinator of the added value and the schedule of phased in taxable value.

*Ref: 2009-11-23; 2007-05-09; 2004-10-25; 99-11-22; 99-11-8 A; 99-3-8; 95-4-10; 94-5-22.*

**\*PROPOSED NEW TEXT FOR ALL PORTSMOUTH IF LEGISLATION PASSED**

Property Tax Stabilization Program – as amended , 2015

**RESOLUTION of the Town Council of the Town of Portsmouth, Rhode Island re-authorizing and revising tax stabilization for qualified business property:**

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A major objective of the Portsmouth Town Council is to encourage a strong and diverse local economy. A tax stabilization program is one way to support the growth of new and expanding businesses. The Portsmouth Tax Stabilization program can provide some property tax relief for a business making an investment in new facilities and or expanding or rehabilitating existing business structures. Therefore the Portsmouth Tax Stabilization Program is established to reward owners of commercial property to make investments in business facilities.

**Eligible Facilities:**

All legally permitted commercial and industrial facilities are eligible. No manufacturing or commercial concern relocating from one city or town within the State of Rhode Island to Portsmouth shall be eligible for this program in the year of relocation.

**The Following Tax Schedule is to be used:**

For expansion of an existing facility, renovation of an existing facility, construction of a new facility, or leasehold improvements the percentage of new added taxable assessment shall be exempt as follows:

<u>Year</u>	<u>% Exempt From Tax</u>
1	100%
2	80%
3	60%
4	40%
5	20%
6	0%

In year 6 and thereafter, the new value will be taxed at the normal rate for the Town.

**General Rules and Standards:**

Tax Stabilization will not relate to the value of land, but only to the value of building improvements nor does it change or affect any pre-existing valuation. Tax Stabilization shall apply to all value not assessed as of the previous December 31, regardless of whether the building permit therefore was issued before or after the beginning of the year. New and expanding businesses must apply for designation in the same year as the issuance of a building permit. Tax Assessment and collection practices will be the same as for any other property except for a final calculation on the portion of exempt from taxes.

In no event shall total assessment on which the exemptions are based exceed the then current assessment on the improvements. Leasehold improvements will be classified as tangible personal property in order to qualify, as long as they are attached to the building.

The only requirements to benefit from this program are for the business to be current on property tax payments, and be in conformance with the zoning ordinance. There are no thresholds for minimum size or value, or a minimum number of jobs to be created.

**\*PROPOSED NEW TEXT FOR ALL PORTSMOUTH IF LEGISLATION PASSED**

Property Tax Stabilization Program – as amended , 2015

**Other Conditions of Participation:**

In the event that the applicant defaults on any quarterly tax or other payment due the Town on property receiving exemption hereunder for a period of more than 45 days (real estate, motor vehicle, or personal property), the stabilization shall cease immediately. Notice of delinquency shall be sent to property owner by registered mail not more than 30 days after delinquency.

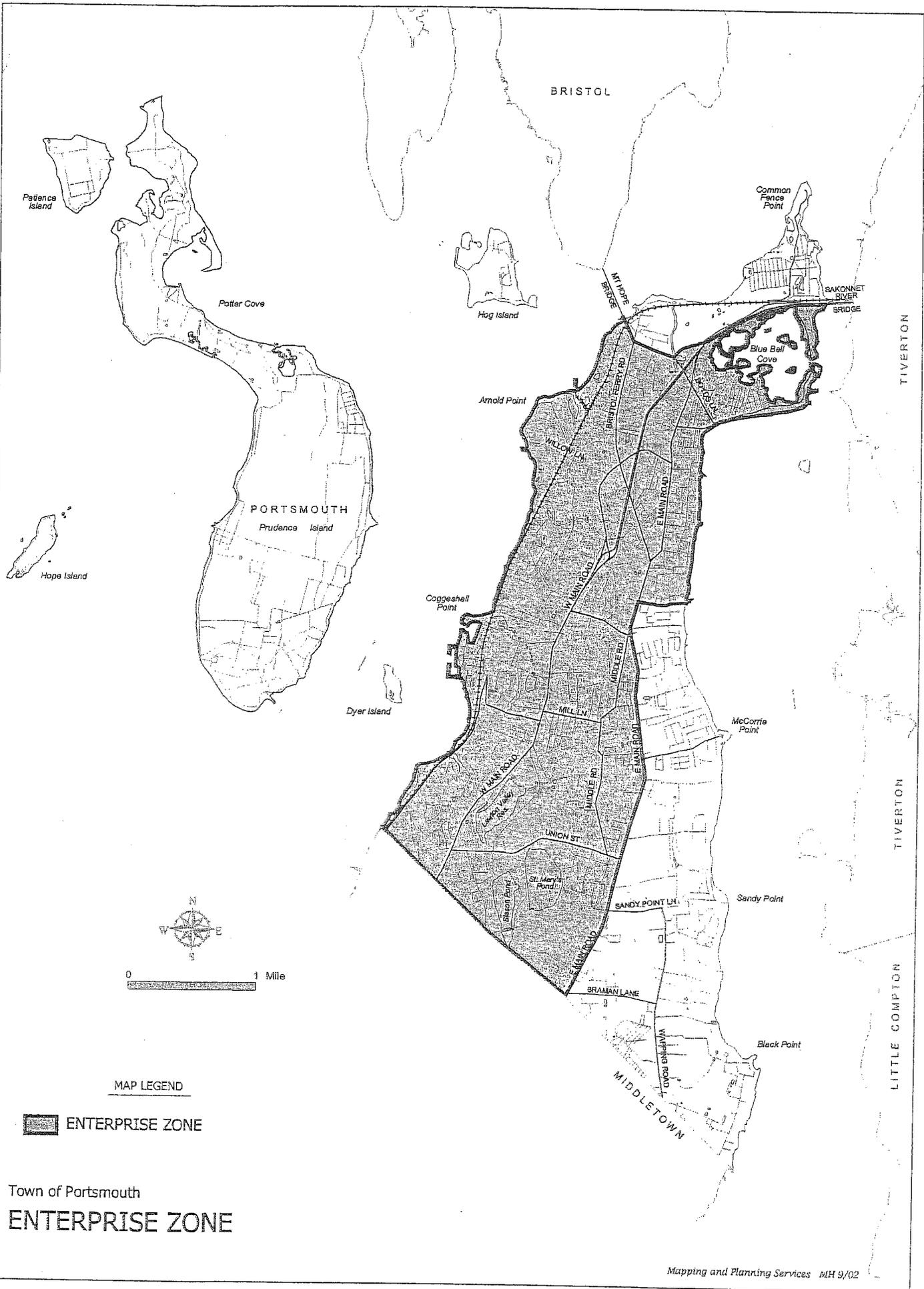
Tax stabilization is transferable to new owners of eligible property, to the extent that only the remaining balance of eligible time a property may be in the tax stabilization program is transferable, or a pro rata portion of the original property thereof in the case of a conversion and transfer of property to condominium ownership, or other split ownership, provided that payment of property taxes due on said property in the Tax Stabilization program are not delinquent, and that the new and/or prior owner are not delinquent on payment of other taxes to the Town. All transfers of continuing participation must be registered with and approved by the Director of Business Development. The Director of Business Development will forward notice of eligible transfers of participation to the Tax Assessor.

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	EXEMPTIONS AS PERCENT OF TOTAL ASSESSMENTS									
	RESIDENTIAL					CIU				
	Gross Assessment	Exemptions	% Exempt.	Tax Rate	Tax Amount	Gross Assessment	Exemptions	% Exempt.	Tax Rate	Tax Amount
12/31/2014	\$2,733,900,625	\$75,937,588	2.8%	\$15.800	\$1,199,814	\$305,966,265	\$3,637,098	1.2%	\$15.800	\$57,466
12/31/2013	\$2,714,083,525	\$80,310,363	3.0%	\$15.800	\$1,268,904	\$295,234,200	\$2,722,150	0.9%	\$15.800	\$43,010
12/31/2012	\$2,904,679,000	\$84,231,507	2.9%	\$14.526	\$1,223,547	\$294,055,900	\$2,322,900	0.8%	\$14.526	\$33,742
12/31/2011	\$2,895,214,200	\$82,662,063	2.9%	\$14.238	\$1,176,942	\$288,264,200	\$2,729,935	0.9%	\$14.238	\$38,869
12/31/2010	\$2,903,773,900	\$90,943,040	3.1%	\$13.908	\$1,264,836	\$290,414,100	\$3,928,190	1.4%	\$13.908	\$54,633
12/31/2009	\$3,505,542,600	\$129,131,971	3.7%	\$11.301	\$1,459,320	\$309,948,600	\$4,297,386	1.4%	\$11.301	\$48,565
12/31/2008	\$3,411,101,400	\$134,214,217	3.9%	\$11.265	\$1,511,923	\$313,234,000	\$5,534,521	1.8%	\$11.265	\$62,346
12/31/2007	\$3,366,636,500	\$133,509,599	4.0%	\$10.840	\$1,447,244	\$377,365,173	\$6,534,151	1.7%	\$10.840	\$70,830
12/31/2006	\$3,081,400,700	\$108,348,824	3.5%	\$11.380	\$1,233,010	\$306,379,858	\$4,985,496	1.6%	\$11.380	\$56,735
12/31/2005	\$3,038,138,000	\$108,235,349	3.6%	\$10.995	\$1,190,048	\$300,734,325	\$4,715,960	1.6%	\$10.995	\$51,852
12/31/2004	\$2,988,546,400	\$105,826,275	3.5%	\$10.350	\$1,095,302	\$297,022,750	\$3,219,580	1.1%	\$10.350	\$33,323
12/31/2003	\$1,749,970,300	\$68,816,365	3.9%	\$16.200	\$1,114,825	\$216,059,250	\$4,587,200	2.1%	\$16.200	\$74,313
12/31/2002	\$1,714,337,100	\$70,996,473	4.1%	\$16.460	\$1,168,602	\$192,382,320	\$5,428,680	2.8%	\$16.460	\$89,356



BRISTOL

TIVERTON

TIVERTON

LITTLE COMPTON

Patience Island

Potter Cove

Hog Island

Common Fences Point

SAKONNET RIVER BRIDGE

Blue Bell Cove

PORTSMOUTH

Prudence Island

Hope Island

Dyer Island

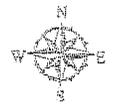
Arnold Point

Coggeshall Point

McCorrie Point

Sandy Point

Black Point



0 1 Mile

MAP LEGEND

 ENTERPRISE ZONE

Town of Portsmouth  
**ENTERPRISE ZONE**



*Portsmouth Dog Park Planning Committee  
13 Fox Run Road  
Portsmouth, RI 02871*

February 2, 2016

Mr. Keith Hamilton, President  
Portsmouth Town Council  
2200 East Main Road  
Portsmouth, RI 02871

Dear Mr. Hamilton and fellow Council Members,

The Portsmouth Dog Park Planning Committee has two items to bring before the Council at its February 8<sup>th</sup> meeting. The first is a request to once again place an insert with a Dog Park update in the dog license renewal letters going out from the Clerk's Office in late February. A sample of that half page insert is attached.

Secondly, I am requesting that two names be removed from the membership of the Dog Park Planning Committee: Joan Eline and Grace Kinnunen. Both women officially resigned from the committee, but neglected to send letters of notification to the Clerk. Attached are minutes from the committee acknowledging their resignations. Joan has moved to Florida with her husband's job change and Grace cited other town-related obligations. With the addition of three new members in the last few months, committee membership is at 10, with 4 more active participants who have not officially joined the committee.

Thank you, Council, for your attention in these two matters. I look forward to answering any questions you may have about our progress at the February 8<sup>th</sup> meeting.

Sincerely yours,

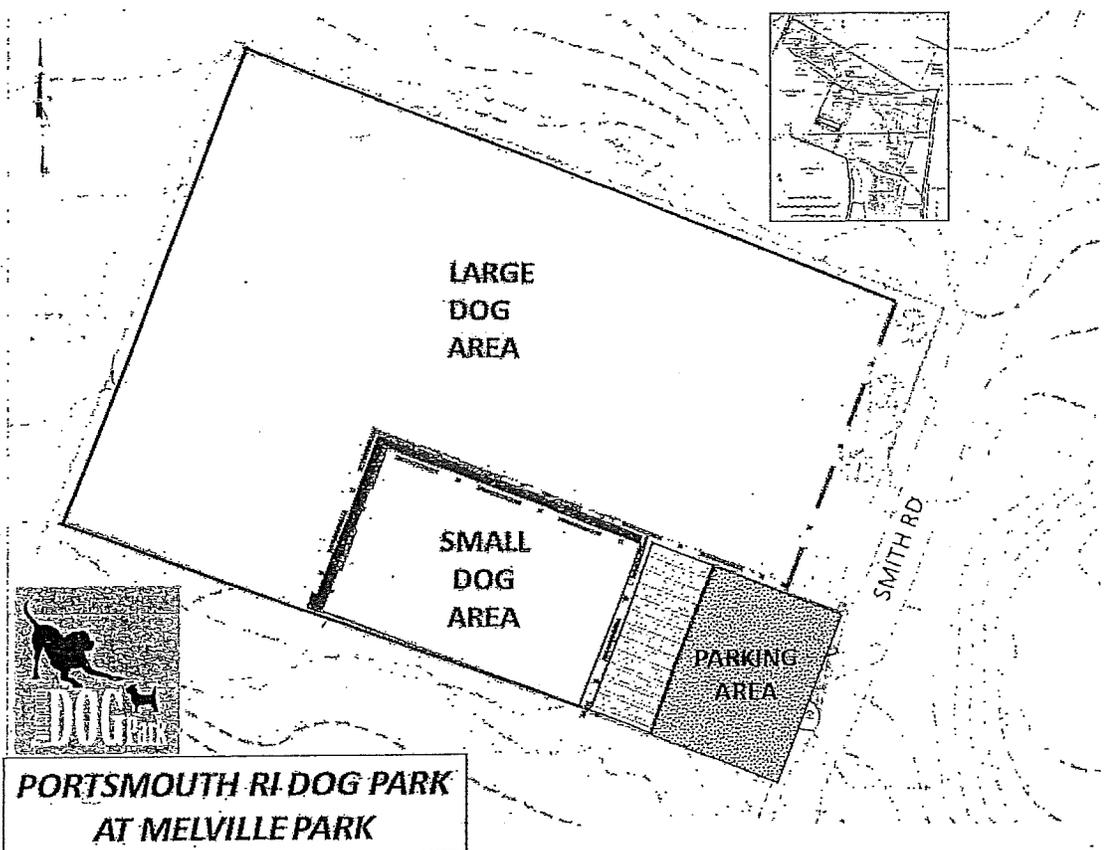
Bunny Miller, Chair  
Dog Park Planning Committee

SIDE 1

## Portsmouth Dog Park Update

- On the reverse side is our site design developed by Neal Hingorany of Narragansett Engineering, Inc.
  - The solid black line for the outside border is black chain link fencing 6' high.
  - The lighter dash/dot lines indicate post and rail fencing with a mesh insert 4,9" high.
  - The dark line separating the small and large dog areas is a 6' wide walkway with post and rail fencing on both sides.
  - The parking area will hold 10 cars, one for cars with handicapped stickers.
  - The gray colored entrance area will have memorial bricks, a water fountain for people and dogs, a recycling station, and a community bulletin board. There will be benches and areas to sit throughout the dog park, along with dog waste containers.
  - Total area size is equivalent to 2 football fields side by side. 100 yards deep, 100 yards wide.
- If the anticipated funding comes in, we expect to begin construction in May and have the dog park open this summer. Much will depend on how well the grass grows. We have changed the plan for the surface from wood chips to grass, at least until mowing has destroyed invasive plant growth. Most of the trees inside the fencing will be removed due to extensive damage from vines, but the area surrounding the dog park will remain wooded.
- Watch for upcoming fundraisers on Facebook (PortsmouthRIDogPark), in newspapers and posters.
  - Drink and Dabble in April;
  - 2<sup>nd</sup> Annual 5K Fun Run with Walk & Talk in May;
  - Sale of memorial bricks, fence signs and benches in May and June.
- Actual budget has risen to nearly \$100,000. Donations of any size are most welcome.

SIDE 2



**Town of Portsmouth**  
2200 East Main Road  
Portsmouth, RI 02871-1268  
www.portsmouthri.com

**Tax Assessor**  
tel. 401-683-1536  
fax 401-683-0095

**Tax Collector**  
tel. 401-683-1214  
fax 401-683-0095

January 26, 2016

**Town Clerk's Office:**

Could you please put the following item under New Business for the February 8, 2016 Town Council meeting: Request Approval to Amend Resolution #2015-01-29-Exemption From Taxation of the Real estate of Certain Income Eligible Senior Citizens.

As always, thanks.



Matthew A. Helfand  
Tax Assessor/Collector RICA

RECEIVED  
PORTSMOUTH, R.I.  
2016 FEB - 11 P 3: 39  
JOANNE M. MOWER  
TOWN CLERK

Town of Portsmouth  
2200 East Main Road  
Portsmouth, RI 02871-1268  
www.portsmouthri.com/www.visionappraisal.com

Tax Assessor  
tel. 401-683-1536  
fax 401-683-0095

Tax Collector  
tel. 401-683-1214  
fax 401-683-0095

JANUARY 26, 2016

TO: PORTSMOUTH TOWN COUNCIL

FROM: MATTHEW A. HELFAND - TAX ASSESSOR/COLLECTOR

For the 2016 Tax Roll, I would like to request the following update to amend Resolution # 2015-01-29 pursuant to the Town Ordinance entitled Exemption from Taxation of the Real Estate of Certain Income Eligible Senior Citizens. The increase in these figures is calculated according to the current CPI-U of (0.7%).

	<u>IF YOUR INCOME IS:</u>	<u>YOUR EXEMPTION IS:</u>
	<u>(DEC. 2015)</u>	<u>(2016 TAX ROLL)</u>
-		
<u>CPI-U</u>	0 - \$9,313	85% of Assessed Value
0.7 (%)	\$9,314 - \$11,607	75% of Assessed Value
	\$11,608 - \$13,902	65% of Assessed Value
	\$13,903 - \$16,198	55% of Assessed Value
	\$16,199 - \$18,492	45% of Assessed Value
	\$18,493 - \$20,789	35% of Assessed Value
	\$20,790 - \$23,081	25% of Assessed Value
	\$23,082 - \$25,379	15% of Assessed Value
	\$25,380 - \$27,489	10% of Assessed Value