

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. Z-32

July 14, 2008

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Section 20-13 as follows:

1. 20-13 (d) Definitions Delete the current definition of *Construction and demolition*, and replace in it's entirety with the following definition:

Construction and demolition: Any excavation, highway construction, land development or land clearing work, or the erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, excavators, earth moving equipment, compressors, motorized, or power hand tools, manual tools, or equipment of a similar nature as well as two-way radios or other communication equipment; or use of any equipment for recycling, screening, separating, or any other processing of soil , rocks, concrete, asphalt or other raw material.

2. 20-13 (e) Time Restrictions. Delete Subsection (1) in its entirety and insert it its place the following language:

(1) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from all electric motors and/or internal combustion engines employed in yard, garden, or grounds maintenance is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 8:00 p.m. on weekdays; or

(B) Between 9:30 a.m. and 8:00 p.m. on Saturdays, Sundays and legal holidays as established in Section 2-26 of these revised ordinances.

3. 20-13 (e) Time Restrictions. Delete Subsection (2) in its entirety and insert in its place the following language:

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(2) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from construction and demolition activity is prohibited except during the following time periods:

- (A) Between 7:00 a.m. and 7:00 p.m. on weekdays; or
- (B) Between: 8:00 a.m. and 7:00 p.m. on Saturdays;
- (C) Generation of any noise from construction and demolition activity is prohibited at any hour on Sundays and legal holidays as established in Section 2-26 of these revised ordinances, except by permit issued in accordance with subsection (h)(1).

4. 20-13 (e) Time Restrictions. Insert in paragraph (4) after the phrase “vehicle-mounted refrigeration equipment” and before the words “shall be left running” the following language:

“, or other motorized vehicle,”

5. 20-13 (e) Time Restrictions. Delete, in the first sentence of paragraph (5), after the word “excepting”, the following language: “the following:”, and further delete the sub-paragraph designation “(a)” such that the paragraph reads as a continuous whole with no subparagraph.

6. 20-13 (e) Time Restrictions. Insert a new paragraph (7) as follows:

(7) Between the hours of 11:00 p.m. and 7:00 a.m. no person or persons shall disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any electronic device, or from the playing of any band or orchestra, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, provided however, that any performance, concert, establishment, band group or person who has received and maintains a valid license or permit from any department, board, or commission of the City of Newton authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise for the purposes of this section shall be defined as 5dB(A) or more above background level when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit.

7. 20-13 (f) Maximum Noise Levels. Delete the language preceding paragraph (3) and insert in its place the following language:

(f) *Maximum Noise Levels.* Notwithstanding the provisions of subsections (e)(1) and (e)(2), the following are the maximum noise levels that are permitted for the specified noise sources:

Maximum noise level dB(A) permitted:

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(1) *Vehicles*

Vehicle Class	Stationary or Moving,
All vehicles over 10,000 lbs. GVW or GCWR.....	86
All Motorcycles.....	82
Automobiles and light trucks	75

Noise measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) *Construction equipment.*

Maximum noise level dB(A) permitted:

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper90

Air compressor85

Generator 90

Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether hand held or otherwise.... 75

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(3) *Yard, Garden, or Grounds Maintenance Equipment*

(i) Maximum noise level dB(A) permitted:

Commercial Chipper, 3 1/2 inch or greater limb capacity (running at full speed but not chipping).90

Commercial truck-mounted leaf vacuum.....90

All other equipment, including home tractor, leaf blower, lawn mower or trimmer.....65

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Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(ii) *Transition period.* Notwithstanding the maximum maintenance equipment noise levels listed in subsection (3)(i) above, maximum noise levels dB(A) for all yard, garden, or grounds maintenance equipment, excluding commercial chippers and vacuums shall be as follows:

1. Maximum noise level dB(A) permitted up to two (2) years after effective date of this Section:
 - a) Home tractor, leaf blower.....80
 - b) Lawn mower or trimmer..... 75
2. Maximum noise level dB(A) permitted from two (2) years to four (4) years after effective date of this section, all equipment.....70

8. 20-13 (f) Maximum Noise Levels. Renumber Paragraph (3) *Maximum Noise Level Exclusions* to Paragraph (4), delete the last sentence contained in said paragraph and insert in its place the following language:

The time restrictions contained in subsection (f)(2) shall still apply.

9. Further amend 20-13 (f) *Maximum Noise Levels* by:

a. Inserting after the paragraph newly renumbered as paragraph (4) a new paragraph (5) as follows:

(5) *Maximum Noise Levels for HVAC systems.* No person shall operate any air conditioning, refrigeration or heating equipment for any residence or other structure or operate any pumping, filtering or heating equipment for any pool or reservoir in such manner as to create any noise which would cause the noise level on the premises of any other occupied property or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the background noise level by more than five (5) dB(A). This provision shall not apply, however, to periodic or emergency maintenance or testing of such equipment reasonably necessary to maintain such equipment in good working order. Noise measurements and noise pollution determinations shall be taken in accordance with subsections (e)(2) and (e)(3).

b. Renumbering the remaining paragraphs (4), (5), and (6) to (6), (7), and (8) respectively.

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10. Further amend 20-13 by renumbering Sections 20-13 (g), 20-13(f) and 20-13(e) as follows:

- a. **20-13(g) *Noise Sources causing Noise Pollution* renumbered to: 20-13(e)**
- b. **20-13(e) *Time Restrictions* renumbered to: 20-13 (f)**
- c. **20-13 (f) *Maximum Noise Levels* renumbered to: 20-13 (g);**

11. Further amend 20-13 by deleting the catchline of newly renumbered 20-13 (e) and inserting in its place the following catchline:

(e) Noise Pollution Prohibited

12. 20-13 (h) *Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.* Delete the last sentence of paragraph (h)(1) and insert in its place the following language:

“Promptly after issuance, copies of all such permits shall be filed with the clerk of the board of aldermen and to each ward alderman for the affected ward.”

13. 20-13 (h) *Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.* Insert after the last sentence of paragraph (h)(2) the following language:

“Promptly after issuance, copies of all such extensions shall be filed with the clerk of the board of aldermen and to each ward alderman for the affected ward.”

14. 20-13 (j) *Penalties.* Delete the word “ordinance” and insert in its place the word “Section.”

15. Insert after paragraph (j) a new paragraph (k) as follows, and renumber existing paragraph (k) *Severability* to (l):

(k) Non-criminal disposition. In addition to the penalties set forth in subsection (j), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 20-20 and 20-21 of the Revised Ordinances, as amended, pursuant to the authority granted by G.L. c. 40, sec. 21D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in Sections 20-21(c) and 20-21(d).

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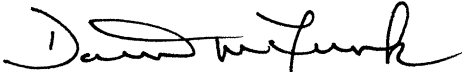
BE IT FURTHER ENACTED:

That the Revised Ordinances of Newton 2007, as amended be and are hereby further amended by adding the following additional paragraph to both subsection (c) and subsection (d) of Section 20-21, *Enforcing persons and revised ordinances subject to civil fine*:

Section 20-13 Noise Control

() Any Offense\$50.00

Approved as to legal form and character:


DANIEL M. FUNK
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted
21 yeas 1 nay (Ald. Lennon) 2 absent (Ald. Danberg and Parker)

A Motion to Reconsider was filed on July 15, 2008 by Ald. Sangiolo; the Motion to Reconsider failed to carry on July 21, 2008; the vote of July 14, 2008 stands.


(SGD) DAVID A. OLSON
City Clerk


(SGD) DAVID B. COHEN
Mayor

Date:

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