

**MONTPELIER NOTICE
ORDINANCE AMENDMENT**

ARTICLE X. NOISE CONTROL

Sec. 11-1000. ~~PROHIBITIONS GENERALLY.~~ PROTECTING PUBLIC TRANQUILITY

Purpose: In order to preserve the peace and promote civility and to prevent hearing loss, sleep loss and a general reduction in the quality of life, Montpelier will protect the public tranquility.

Sec. 11-1001. Prohibitions

General Prohibitions: No person shall make or continue any excessive, unnecessary, unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance. Without limitations the commission of one or more of the following acts, if done in such manner, shall be deemed a violation of this Article:

(a) Mobile, Portable or Outdoor Electronic sound-producing devices. The playing or use of a mobile, portable or outdoor electronic sound-producing device in such manner or with such volume at any time and place so as to disturb, destroy or endanger the comfort, repose, or peace of persons ~~in the immediate vicinity of the noise or disturbance.~~ Evidence of such disturbance shall be the use of electronic sound producing devices that are operated in such a manner to be plainly audible at a distance of 50 feet in any direction from the operator.

(b) Vocal disturbances. Yelling, shouting, whistling, singing or making any other loud vocal disturbance so as to disturb, destroy, or endanger the comfort, quiet, repose or peace of persons in the immediate vicinity of the noise or disturbance. This section shall not be construed to prohibit a vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event or assembly sponsored by a public or private school or conducted on city or school property with proper permission by city or school officials.

(c) Devices to attract attention. The use of any drum, musical instrument, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention. This section shall not be construed to prohibit the playing of musical instruments by students practicing or performing in a school band or orchestra, or other persons participating in an authorized parade or assembly in a public place, nor shall this section be construed to prohibit the sounding of any signaling device under the control of the City, a church or a school.

(d) Dogs, cats and other animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.

(e) Construction noises and Maintenance Sounds. The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street between the hours of 9:00 P.M. and 7:00 A.M., except for necessary emergency ~~repairs to protect property of persons, when such activity utilizes motorized or powered tools or equipment.~~ construction and maintenance (see 11-1006 (f)) to protect property or persons.

(f) Trash removal. The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances ~~from all residentially zoned areas~~ within 500 feet from a residential receiver between the hours of 9:00 P.M. and ~~6:30~~ 6:00 A.M..

(g) Compression brakes. The non-emergency use of compression brakes (also known as Jacob's

brakes) by trucks after 9:00 P.M. and before ~~7:00~~ 6:00 A.M..

(h) General Property Line Standard: This general property line standard is a numerical standard for determining whether the sound from a particular source is a violation of this Article. The sound pressure level is measured at or within the property lines of a receiving property. When a sound exceeds the dBA sound level specified in Table A, it is a violation of this Article.

	<u>Table A</u>	
	<u>Time of Day</u>	<u>Time of Day</u>
<u>Receiving Property</u>	<u>6:00 AM to 9:00 PM</u>	<u>9:00 PM to 6:00 AM</u>
	<u>dBA</u>	<u>dBA</u>
<u>Residential</u>	<u>60</u>	<u>55</u>
<u>Commercial/Industrial</u>	<u>65</u>	<u>65</u>

Sec. 11-1002. EVIDENCE OF VIOLATION.

For the purposes of subsections (a), (b), (c), (d) and (e) of Section 11-1000, a noise or disturbance of such magnitude so as to be plainly audible in another building or in another dwelling unit located in the same building, shall be deemed prima facie evidence of a violation of this Article.

Sec. 11-1003. MUFFLERS.

A motor vehicle, including a motorcycle, moped, snowmobile, all-terrain vehicle, or other vehicle equipped with and propelled by engine, whether operated on a public street or on private property, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy or damage any of the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass or similar device upon any such vehicle. Such vehicle shall at all times be equipped with a properly operating exhaust system which shall include a tail pipe and a resonator on a vehicle where the original design included a tail pipe and a resonator.

Sec. 11-1004. ~~AUTHORITY UNLAWFUL NOISE PROHIBITED AND PENALTY.~~
ENFORCEMENT

(a) No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Article by another person on such premises.

(b) Any person violating the provisions of this Article shall be punished as provided in Section 1-9 of the Code. Notwithstanding, persons found in violation of Section 11-1000(f) may, within ten days from the date of such violation, admit the violation and waive the issuance of any process in a trial by court or by jury or hearing, by voluntarily paying to the City \$100 or by satisfying other conditions as may be imposed. The penalty after the expiration of the said ten-day period, but within thirty days from the date of such violation, shall be \$150, or by satisfying other conditions as may be imposed. After thirty days from the date of such violation, the penalty shall be established in Section 1-9.

Sec 11-1005. VARIANCES.

Any person may apply to the City council for a variance from the requirements of this Chapter prior to doing those acts. The applicant shall provide a certified list of property owners within two

hundred fifty (250) feet of the site(s) where the activity is to occur. Ten (10) days advance written notice of the Council meeting shall be provided to the property owners and residents appearing on the list. For good cause shown, the City Council may, in its sole discretion, either grant or deny the variance. If the variance is granted, the council may impose reasonable conditions to it.

Sec 11-1006. EXEMPTIONS.

~~Noise from the following sources shall be exempt from the prohibitions specified herein:~~ Sounds from the following sources shall be exempt from the prohibitions specified herein and shall not be included in any measurements performed to determine compliance with Table A of section 11-1001 (a):

a. All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire and medical/rescue vehicle sirens.

b. The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside of daytime hours.

c. Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.

d. Musical, recreational and athletic events conducted by and on the site of a school or education institution and municipal institutions.

e. Events conducted by or permitted by the City. Persons operating an event under the authority of an entertainment permit, parade, street event, or special use permit shall comply with all conditions of such permits with respect to noise control issues.

f. Construction or repair work which must be done to address an emergency health or safety concern and that can not be accomplished during daytime hours and which is not work which includes normal maintenance and repair.

g. Equipment for maintenance of lawns and grounds during the hours of 7:00 AM to 9:00 PM (including but not limited to lawn mowers, hedge trimmers, weed whackers, chain saws and leaf blowers).

h. Vehicles that meet state standards on the public right of way.

Sec. 11-1007. NOTIFICATION BY PROPERTY OWNERS OF RENTAL HOUSING.

Owners of rental housing shall be required to provide a copy of this ordinance to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the ordinance shall not be a defense to a violation of this section.

Sections 11-1008. DEFINITIONS

a. Plainly audible - Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

b. Residential property or receiver - property used for human habitation or sleeping.

c. Commercial/Industrial property or receiver - all other property e.g. restaurants, schools,

churches.

d. Background level - the composite of all sounds exclusive of the sound under evaluation.

e. dBA - the sound pressure level measured using the A weighting network as prescribed by the American National Standards Institute.

f. Receiving property - the location that is receiving the sound in question.

g. Emergency - any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

h. Emergency work - any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

i. Noise - any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Sections 11-1009 to 11-1099. Reserved.

Enacted August 10, 1983.

Amendment enacted August 22, 1990 [Sec. 11-1000, Subsection (f) added; Sec. 11-1004, Subsection (b) rewritten]. Date of Publication: 8/30/90. Effective Date: 9/5/90.

Amendment enacted March 11, 1998 [Sec. 11-1000, Subsection (g) added; Sec. 11-1002, ACTS NOT SPECIFICALLY PROHIBITED, deleted; and Sec's. 11-005. VARIANCES, 11-006. EXEMPTIONS and 11-1007. NOTIFICATION BY PROPERTY OWNERS OF RENTAL HOUSING added.] Date of Publication: 3/23/98. Effective Date: 3/29/98.

The Montpelier City Council approved the above ordinance amendments at the December 11, 2002, City Council Meeting. It will become effective six days after publication. Published December 19, 2002.

Charlotte L. Hoyt, City Clerk