

Sec. 150. Noise Control.

(a) *Policy.* Excessive sound is a serious hazard to the public health, welfare, safety and quality of life. Controlling excessive noise assists with ensuring that members of the public are able to enjoy an environment free from the harms that accompany extreme levels or durations of sound. This bylaw sets forth the community standard for noise pollution and what shall be considered a nuisance for noise pollution under the law. This bylaw shall apply to the emission of noise from any source within the Town of Falmouth.

(b) *Definitions.* For the purposes of this bylaw, the following words shall have the meanings ascribed herein.

Background Noise. The level of environmental noise that exceeds the sound level 90 percent of the time, in the absence of loud sustained intermittent noises, measured as the 90th percentile sound level, or L₉₀.

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.

Decibels (dBA). A unit of measurement used to express the magnitude of sound levels. The “A” weighted decibel scale is a sound level filter used to simulate the average human hearing profile.

Electronic devices. Any public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment of any kind.

Emergency: Any occurrence or set of circumstance deemed by the Town Manager, the Commonwealth or the Federal Government to be necessary to restore, preserve, protect or save lives or property from imminent danger or loss of harm.

L_{eq} Noise Level. A unit of measurement of fluctuating sound as an average of the total energy over a given period of time. This measurement represents a level of steady sound that has the same energy as a fluctuating sound measured over the same time period.

Maximum Noise Levels. The highest noise measurement in dBAs as calculated by using a 1-Second L_{eq} measured with a Sound Level Meter at the nearest lot line for a period of three minutes.

Noise Pollution. The sustained production of noise that increases the 1-second L_{eq} noise level measurement to an excess of 10dBA or more above background noise level, except that if the

noise source produces a tonal sound, an increase to 5dBA or more above background noise level is sufficient to cause noise pollution. Noise levels must be measured by a sound level meter and the sound level must be calculated using a 1-Second L_{eq} measurement for at least three minutes.

1-Second L_{eq} : A sound measurement that represents the A-weighted, equivalent continuous sound level in decibels over a one second period of time.

Person: Any individual, company, occupant, real property owner, tenant or agent in control of real property.

Sound Level Meter: Any Class 1 or Class 2 instrument meeting industry standards, capable of measuring average or integrating sound levels, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable sound engineering practices.

Sound Pressure Level: The level of noise, expressed in decibels, as measured by a sound level meter.

Tonal sound: any sound with a constant, single frequency such as a whine, hum or buzz.

(c) *Noise Pollution Prohibited*. No person shall willfully or negligently create, cause or allow noise pollution by any means or from any source.

(d) *Time Restrictions*.

(1) The generation of 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 am and 8 pm on weekdays; or

(B) Between 9:00 am and 8:00 pm on Saturdays, Sundays and legal holidays.

(2) The generation of noise from construction and demolition activity is prohibited except during the following time periods:

(A) Between 7:00 am and 7:00 pm on weekdays; or

(B) Between 8:00 am and 7:00 pm on Saturdays; or

(C) At anytime on Sundays or legal holidays without a waiver issued in accordance with Section (i) of this bylaw.

(e) *Pickleball.*

(1) This section recognizes the noise level challenges associated with pickleball, a popular recreational activity enjoyed by many. Certain characteristics of the paddle and ball used for the sport produce a noise with unique tonal qualities that include pronounced, high-frequency, staccato sounds. This section acknowledges that establishing an individual community standard for noise pollution emanating from pickleball activities allows for the popular sport to be played in Falmouth .

(2) Notwithstanding the remaining provisions of this bylaw, noise produced from playing pickleball at an outdoor pickleball court shall not produce noise levels in excess of 57 dB(A) measured at the nearest adjacent property lines for properties zoned for residential use or used for residential purposes. Noise levels must be measured by a sound level meter and the sound level must be calculated using a 1-Second L_{eq} measurement for at least three minutes.

(3) An outdoor pickleball court shall only be made available for use and shall only be used for pickleball between the hours of 8:00 am and 8:00 pm.

(4) No waivers may be granted for this section.

(f) *Waiver Provisions.*

(1) The Town Manager, or designee, may grant a waiver from the provisions of this bylaw:

(A) for any activity otherwise forbidden herein;

(B) for an extension of time to comply with the provisions of this bylaw and any orders to abate the noise pollution; and

(C) when it can be demonstrated that bringing a source of noise pollution into compliance with the provisions of this bylaw would create an undue hardship on a person or the community.

(2) A person seeking a waiver must make a written application to the Town Manager, or designee. The Town Manager may establish procedures for the issuance of such waivers, to be consistent with the purpose of this bylaw.

(g) *Exemptions.*

(1) The emission of sound from emergency vehicles, or caused to be emitted by law enforcement or public safety personnel in the performance of emergency work, or in training exercises related to emergency activities.

(2) The operation of a vehicle alarm system, provided the noise terminates within fifteen (15) minutes from the original complaint.

(3) Activities, other than construction or pickleball play, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events.

(4) Occasional outdoor gatherings, public entertainment and sporting events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction.

(h) *Enforcement.* The Falmouth Police Department shall be responsible for enforcement of this ordinance.

(i) *Penalties.* Any person who violates any provision of this bylaw shall be subject to a fine of three hundred dollars (\$300.00). Each day that such violation continues shall be considered to be a separate offense.

(j) *Non-criminal disposition.* Violations of this bylaw may be enforced by a civil fine where non-criminal disposition of this section is provided in § 1-2 of the Falmouth bylaws, as amended, and pursuant to the authority granted by G.L. c. 40 § 21D. The penalty for violations of this bylaw shall be \$300 per offense, and each day that a subsequent or continuing violation occurs shall constitute a separate offense. The civil penalty for each such violation is also set out in § 1-2.

(k) *Severability.* If any section of this bylaw shall be held to be invalid by a court of competent jurisdiction, then such section shall be considered separately and apart from the remaining provisions of this bylaw, which shall remain in full force and effect.