

Town of Varick Noise Ordinance

1. Title.

This chapter shall be known as "Noise Regulations of the Town of Varick."

2. Purpose.

In order to maintain peace, good order and safety for the people residing in and who are visitors to the Town, this chapter is intended to prevent unreasonably loud or disturbing noises which are of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people.

3. Public nuisance

By this Ordinance, the Town of Varick declares noise to be a public nuisance.

4. Definitions; standards for decibel readings.

As used in this chapter, the following terms shall have the meanings indicated:

AMBIENT NOISE. The background average noise level within an area, exclusive of extraneous sounds.

CONTINUOUS SOUND. Any sound that is not impulsive.

dBA. The abbreviation for A-weighted sound level in decibels.ⁱ

FAST RESPONSE. The characteristic of a sound level meter which allows for accurate measurement of impulsive sounds such as aⁱⁱ horn blasts, hammering, fireworks or passing motor vehicles.

IMPULSIVE SOUND. Characterized by excursions of the sound pressure which exceed the ambient by six or more decibels, but that last two seconds or less.

INDUSTRIAL/AGRICULTURAL OPERATION. The production, fabrication and storage of man-made goods, the production, transformation and storage of energy in all forms, and farm equipment used in farming operations.

MAXIMUM SOUND LEVEL. The recorded or noted maximum room-mean-square (RMS) sound-pressure level noted using an instrument such as a Digital Sound Level Meter, or the NIOSH sound Level Meter App for a cell phone. Maximum impulsive sound shall be measured using the fast-response setting. Maximum continuous sound level shall be measured using the slow-response setting.

NIGHTTIME HOURS. Nighttime hours shall be the hours between 10:00 p.m. and 7:00 a.m.

NUISANCE NOISE. Noise that is plainly audible and creates a noise disturbance at the real property boundary.

REAL PROPERTY BOUNDARY. The property line along the ground surface, and its vertical extension, which separates the real property owned by one person or entity from that owned by another person or entity.

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RECEIVING LAND. The property line of the real property where the sound is being heard and where appropriate level restrictions apply. In the case of any apartment, townhouse or condominium, the point of measurement is within the affected unit.

SOUND LEVEL. The quantity in decibels, measured using an instrument (ANSI S1.4-1983). "Sound level" is the frequency-weighted sound-pressure level obtained with fast or slow response.

SOUND LEVEL METER. An instrument designed to detect and measure sound-pressure levels and display this information in decibels, either in analog or digital form (ANSI S1.4-1983, Type 1 or 2).

5. Standards.

A. Absolute maximum. The following tables set forth the maximum permissible sound levels by a receiving land. Any noise source that produces sound in excess of those levels, as measured within the boundary of the receiving land, shall constitute a violation of this chapter. Noises below these limits may also be a nuisance under the ordinance.

Zoning District	Continuous sound: Measured with slow-response level meter.		Impulsive sound: Measured with fast-response level meter	
	Maximum Sound (in dBA)		Maximum Sound (in dBA)	
	in Day	at Night*	in Day	at Night*
Hamlet and Lakeshore Residential	70	65	75	70
Other Districts	75	65	80	70

*Nighttime hours shall be the hours between 10:00 p.m. and 7:00 a.m.

(3) Where ambient (background) noise level for receiving land exceeds the standards, the following maximum sound levels shall apply:

- (a) Any continuous sound which exceeds the ambient by 8 dB or more.
- (b) Any impulsive sound which exceeds the ambient by 20 dB or more.

B. Nuisance noise. Nuisance noise severity depends on the quality of the sound and on the ambient sounds. Noise limits based on sound level (dBA) do not address sound quality, so they are used as a baseline for objectional noise.

Standards to be considered in determining whether a noise disturbance exists shall include but 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 usual or unusual.

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5. Whether the noise is yelling or shouting and amplified music.
6. The volume and intensity of the background noise, if any.
7. The proximity of the noise to residences.
8. The time of day or night the noise occurs.
9. The duration of the noise.
10. Whether the nature of the sound is inherently annoying.
11. Whether the noise source is temporary.
12. Whether the noise is continuous or impulsive in character, such as fireworks or hammer blows.

6. Exceptions.

There shall be excepted from compliance with this chapter

all vehicles and machinery used in conducting an actual farm operation within the Town of Varick;ⁱⁱⁱ

vehicles used for delivery of produce, equipment or inventory traveling on state highways or county roads through the Town of Varick;

vehicles and equipment operated by Town of Varick employees or contractors of the Town in the course of conducting Town business

vehicles and equipment operated by employees of the State of New York;

police, fire or emergency apparatus or any police, fire or emergency headquarters or station;

required safety equipment, such as backup alarms;

parades;

contractors of the State of New York in the course of conducting state business such as snow removal;

Sounds created by watercraft on Seneca or Cayuga Lake, because they are covered in New York State Navigation Law;

and farming operations, because they are covered in the New York State Right to Farm Laws and Department of Agriculture and Markets regulations.

Conditional exemptions are provided for

Construction: construction during the daytime, while active construction is in progress.

Mitigations should be put in place to minimize impact on neighbors, especially if the construction activity is prolonged (over 2 months).

Concerts and festivals. Events that occur a few times per year and last for several hours at a time, not after 10 pm, and are contained within the property.

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Lawn and garden equipment. Mowing the lawn near the property boundary as part of regular maintenance, and similar transient operations. However, poorly muffled equipment, or excessive use may be considered a nuisance.

These are permitted on the condition that the neighbors not find them too loud, too long, or too frequent.

7. Penalties for offenses; enforcement.

A. Any person, firm, partnership, corporation or other party who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not less than \$50 nor more than \$100 for the first offense. Any subsequent violation of the provisions of this chapter shall be a violation and subject to a larger fine^{iv}. The imposition of any such penalty for the violation of this chapter shall not excuse such violation or permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this chapter shall not be held to prevent the removal of conditions prohibited by this chapter by such legal means as may be proper.

B. This chapter shall be administered and enforced by the Seneca County Sheriff's Department, the New York State Police or any law enforcement agency.^{vi}

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Notes (Not part of ordinance)^{vii}

1. The goal of this noise ordinance is to manage noises that are a nuisance to residents
2. The threshold for being a nuisance is considerably lower than that for health consequences and hearing damage.
3. Noise nuisances are especially sensitive in high-density parts of the town, such as the lakefront¹.
4. The code needs to be enforceable. There needs to be an official who will accept complaints and responds, or proactively monitors for non-compliance.
5. The first step of enforcement should be contacting property owner or manager.
6. Fixed sound sources must be treated differently than moving sources. In the former case, the listener is normally defined while for moving sources it is not.

We need to write that the Town of Varick declares noise to be a *public* nuisance, which is an unreasonable interference with a right common to the general public.²

Characteristics of nuisance noise.

Nuisance noise is often intermittent because it is generated by people's activities. Noise ordinances rarely address that effectively. While it makes enforcement more difficult, it also makes abatement much easier.

Nuisance noise severity depends on the quality of the sound and on the ambient sounds. Noise limits based on sound level (dBA) do not address sound quality, so they are used as a baseline for objectional noise. Noise above the limit are a nuisance, but noises below the the limit may also be deemed a nuisance.

This ordinance will manage subjective Immision³ by making the rule at the property line. Noise that is plainly audible or creates a noise disturbance at the property line.

[*Can this be improved?*] These are permitted on the condition that the neighbors not find them too loud, too long, or too frequent.

Noise ordinances in the US typically se 60 dBA as the residential limit in the day, and 50 dBA at night. Ours is much higher. (From Leslie D. Blomberg, "[Analysis of 491 Community Noise Ordinances](#)." New England Noise Conference 2016

¹ Noise nuisances in these areas have the same character whether from tenants at a short-term rental or another property in the area.

² A public nuisance is enforceable by police and other officials. In contrast, a private nuisance is an interference with a person's enjoyment and use of their land, and is enforced by civil action.

³ Regulations based on subjective immision allow an official to decide if the sound received by a listener is acceptable without recourse to sound measurements and without regard for the specific sound power generated by the source. Regulations with *plainly audible* or *noise disturbance* terms on private property as a criterion are examples. Immision refers to what is heard, emission refers to what is produced. We are concerned with the latter.

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ⁱ dBA should be bold both copies.

ⁱⁱ Delete "a" in both versions

ⁱⁱⁱ Paragraph spacing is ~10 point in Town copy

^{iv} larger fine struck from the original and replaced with: fine of not less than \$100 nor more than \$500.

^v Town copy added:

8. Effective date

This law shall become effective upon filing with the Secretart of State as provided under the New York State Municipal Law.

^{vi} The Town copy is not searchable (it is an image) and therefore cannot have sections copied for reference.

^{vii} The notes were omitted as we had indicated they should be.