

Exhibit E. Livingston Industrial Park Noise Level Regulations

ARTICLE III. NOISE CONTROL

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Sec. 10-30. Declaration of findings and policy.

Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and

A substantial body of science and technology exists by which excessive sound may be measured and substantially abated; and

The citizens of the town have a right to, and should be ensured of, an environment free from excessive sound, especially while at their residences, and accordingly;

Now, therefore, be it ordained by the town that it is the policy of the town to prevent excessive sounds that may jeopardize the health, welfare, or safety of the citizens of the town or degrade the quality of life in the town, and particularly in its residential neighborhoods, and in accordance therewith the board hereby adopts the herein stated provisions and preamble as part of the Code of Ordinances which provisions and preamble shall constitute the noise control code ("code").

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-31. Definitions.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

"A" weighted sound level is the sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

Agricultural activities means those activities performed on farmlands in order to cultivate the soil, product crops, or raise livestock.

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ANSI means the American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified group. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

Broadcast vehicle means a vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this Code.

"C" weighted sound level is the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

Commercial facility means any premises, property or facility involving traffic in goods or furnishing of services for sale or profit including, but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Establishments providing commercial living accommodations and commercial property used for human habitation, when such is the source of the sound under investigation;
- (6) Office buildings;
- (7) Transportation;
- (8) Warehouse.

Community service facility means any nonresidential facility used to provide services to the public, including but not limited to:

- (1) Club meeting halls, offices and facilities;
- (2) Organization offices and facilities;
- (3) Facilities for the support and practice of religion;
- (4) Private and parochial schools.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Continuous sound means any sound with a duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.

Decibel (dB) is a relative unit for the measurement of sound pressure. It is based upon a reference pressure of twenty (20) micropascals (zero decibels) which is the average threshold of hearing for a person with very good hearing. The decibel scale is logarithmic, and as such, an increase or decrease of three (3) dB is a doubling or halving of sound pressure.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways.

Emergency energy release device means a device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety.

Emergency work means any work or action necessary to deliver essential public services including, but not limited to, installing or repairing water, gas, electricity, telephone, sewer facilities, or public

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transportation facilities, trimming or removing trees on public rights-of-way and in utility easements, dredging navigational waterways, or abating life-threatening conditions.

Extraneous sound means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. Extraneous sounds are excluded from measurements of the neighborhood residual sound level and the totals found level.

Frequency means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). "Frequency" is sometimes colloquially referred to as "pitch". Low frequency sounds can correspond to the bass notes in music. Low frequency waves travel farther and penetrate structure more efficiently than high frequency sound waves.

Impulsive sound means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second.

Industrial facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Motor vehicle means any vehicle that is propelled other than by human or animal power on land.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment before any alteration.

Multi-dwelling unit building means any building comprising two (2) or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

Multi-use property means any distinct parcel of land that is used for more than one (1) category of activity. Examples include, but are not limited to:

- (1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- (2) A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

Music box means a self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within the Code.

Neighborhood residual sound level means that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are more steady state, although they may not be continuous.

Noise control administrator means the person selected by the town or its designee, as the person charged with the responsibility of exercising the powers and duties set forth herein.

Noise Control Code means the codification of the provision of law enacted in this article to prevent excessive sounds that may jeopardize the health, safety and/or welfare of the citizens of Walker or degrade the quality of life in Walker.

Noise control officer means any commissioned law enforcement officer who has received noise enforcement training and is currently certified in noise enforcement. The officer must be acting within his

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or her designated jurisdiction and must be authorized to issue a citation and/or summons in order to be considered a noise control officer. A noise control officer will be charged with the responsibility of exercising the duties set forth in this Code and specified to be duties of a noise control officer. In exercising those duties, a noise control officer shall be able to exercise such discretion as may be necessary to enforce the provisions of this Code.

Noise sensitive facility means a facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to:

- (1) Schools;
- (2) Houses of worship;
- (3) Medical facilities;
- (4) Retirement communities.

Personal or commercial vehicle with music amplification or reproduction equipment means any personal or commercial vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this Code.

Plainly audible means 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 such as a "music box" or "broadcast vehicle" the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. In this example, a noise control officer need not determine the title, specific words, or the artist performing the song.

Portable, hand-held music or sound amplification or reproduction equipment means any self contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this Code.

Private celebrations is terminology which means and includes, but is not limited to, organized special events or activities that are of general public interest and that are open to public attendance. Public celebrations include, but are not limited to, organized holiday celebration, special events, festivals and activities of interest which are open to attendance by the general public and which events and activities are sponsored and/or produced by governmental, quasi-governmental and nonprofit tax exempt organization. To be a public celebration, such event must be conducted, either in whole or in part, by the town, or be conducted pursuant to a permit issued by the town.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public service facility means any facility and its related premises, property or equipment used to provide governmental services to the public including, but no limited to:

- (1) Maintenance centers;
- (2) Offices and buildings of agencies or instrumentalities of government;
- (3) Schools;
- (4) Waste collection centers;
- (5) Waster recycling centers;
- (6) Water and sewage facilities.

Public space means any real property or strictures thereon that are owned, leased, or controlled by a governmental entity.

Real property line means either (a) the imaginary line including its vertical extension that separates one (1) parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit

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that is part of a multi-dwelling unit building; (c) on a multi-use property, the interface between the two (2) portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area.)

Residential property means property used for human habitation including, but not limited to:

- (1) Private property used for human habitation;
- (2) Commercial living accommodations and commercial property used for human habitation;
- (3) Recreational and entertainment property used for human habitation;
- (4) Community service property used for human habitation;
- (5) Hospitals or long-term care medical facilities.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

Total sound level means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

Town means the geographic area of the Town of Walker, in which area this article enacting the Noise Control Code is to be enforced, unless the term is clearly used to describe be entity or some other obvious applications.

Weekday means [and day] beginning on Sunday at 8:00 p.m. and ending the following Friday at 6:00 p.m.

Weekends means beginning on Friday at 6:00 p.m. and ending on the following Sunday at 8:00 p.m.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-32 Applicability.

(a) This Code applies to sound from the following source property categories in the town:

- (1) Industrial facilities;
- (2) Commercial facilities;
- (3) Public service facilities;
- (4) Community service facilities;
- (5) Residential properties;
- (6) Multi-use properties;
- (7) Public and private roads, streets or rights-of-ways;
- (8) Public spaces;
- (9) Multi-dwelling unit buildings; and
- (10) Pasture land, farmland, timberland and any unimproved real property.

(b) This Code applies to sound received at the following receiving property categories in the town:

- (1) Commercial facilities;
- (2) Public service facilities;

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- (3) Community service facilities;
- (4) Residential properties;
- (5) Multi-use properties;
- (6) Public or private roads, streets or rights-of-ways;
- (7) Public buildings or spaces; and
- (8) Multi-dwelling unit buildings.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-33. Noise control administrator.

The noise control administrator shall have the following duties and the power to:

- (1) Coordinate the noise control activities of all department in the town and cooperate with all other public bodies nod agencies to the extent practicable;
- (2) Review the actions of the town and advise of the effect, if any, of such actions on noise control;
- (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with the Noise Control Code;
- (4) Promulgate and publish rules and procedures within his or her office to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this Code;
- (5) Review at least every three (3) years the provisions of this Code and recommended revisions consistent with technology to reduce noise, or to address new sound sources within the town; provided, however, that failure to review and/or recommended revisions shall not affect the validity of the provisions then in effect;
- (6) Grant, review and revoke variances pursuant to [section 10-40](#), below; and
- (7) Perform any other functions authorized in this Noise Control Code.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-34. Noise control officers.

Where the provisions of this Code require the measurement of sound with the use of a sound level meter, such measurement shall be made by a noise control officer. A person will be qualified to be a noise control officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the noise control administrator, a noise certification and recertification course which has been approved by the noise control administrator.

When the assessment of sound though to be violation of the provisions of this Code does not require measurement with a sound level meter, or when the level of noise is measured by a noise control officer, and is determined to be in violation of the provisions of this Code, any law enforcement officer having jurisdiction in the area where the violation takes place, may issue a citation and/or summons for the violations of this Code.

Noise control officers shall have the duties assigned to them in this Code and shall have the power to:

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- (1) Investigate and pursue possible violations of this Code for sound levels which equal or exceed the sound levels set fourth in this Code, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with [section 10-35](#), below, and upon confirming violations of this Code, having the authority to issue citations and/or summons for same.
- (2) Cooperate and assist any law enforcement officer in the parish in measuring sound to determine if same is in violation of this Code or any other code having provisions requiring the measurement of sound with sound level meters.
- (3) Cooperate with noise control officers of adjacent jurisdictions in enforcing each jurisdiction's noise ordinances.
- (4) Perform any other functions for noise control officers authorized by this Code.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-35. Maximum permissible sound levels.

- (a) *Continuous sound.* No person shall cause, suffer, allow, or permit the operation of any source on any source property listed in [section 10-32](#) above in such manner as to create a sound level that exceeds the sound level limits listed in Table I, as measured at any location at or within the property line of the receiving property. Sound pressure levels in excess of those established in Table I shall constitute prima facie evidence that such sound is in violation of this Code.

Table I
Maximum Permissible Sound Level Limits
dB(A)

Residential	Residential	Commercial	Industrial
7:00 a.m. — 10:00 p.m. Noise sensitive 24 hour	10:00 p.m. — 7:00 a.m.	24 hours	24 hours
60.00 dB(A)	50.00 dB(A)	65.00 dB(A)	70.00 dB(A)

- (b) *Impulsive sound.*

- (1) Between 7:00 a.m. — 10:00 p.m., impulsive sounds which occur less than ten (10) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in Table I. Impulsive sound which repeats ten (10) or more times in any hour shall not exceed the permissible sound level limits in Table I.
- (2) Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four (4) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in Table I. Impulsive sound which repeats four (4) or more times in any hour shall not exceed the permissible sound level limits in Table I.
- (c) *Amplified sound.* If the source of sound is an amplified sound reproduction device, and the complainant states that the rhythmic bass component of the music is disturbing within their residence, then the noise control officer may take sound level measurements with in the

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residence of the complainant. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it exceeds the total sound level by the permissible sound levels limits set fourth in Table II when measured within the residence of a complain. These sound level measurements shall be conducted within the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation. The C-scale is more sensitive to low frequency sound levels than the A-scale, and an increase of five (5) dB is perceived by humans as being plainly louder, and a ten (10) dB increase is perceived as being twice as loud. Examples of amplified sound reproduction devices, include but are not limited to, sound systems which augment music or voices such as those used for public announcements or as utilized by disc jockeys in playing music.

Table II
Amplified Sound Reproduction Device
Maximum Permissible Sound Level Limits
Indoors Across a Real Property Line
DB Above Ambient

<i>Weeknights 10:00 p.m. — 7:00 a.m.</i>	<i>All other times</i>
<i>Weekend nights 11:00 p.m. and 9:00 a.m.</i>	
3 dB(C)	5 dB(C)

- (d) *Steady pure tones.* If the sound source under investigation is a mechanical device, and is, in the investigating officer's opinion, emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by five (5) dB(A). The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus three (3) dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers. Nothing to the contrary withstanding, sound sources from residential heating, ventilating or air-conditioning units cannot exceed fifty-five (55) dB(C) at night.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-36. Procedures for the determination of sound levels.

- (a) Where the measurement of sound is required, the sound level shall be measured with a sound level meter. The sound level meter and calibrator must be recertified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements, and at least every hour as necessary.

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- (b) Total and neighborhood residual sound level measurements shall be taken in accordance with procedures approved by the noise control administrator. Calculation of source sound levels shall conform with accepted practice.
- (c) Plainly audible sound shall not require measurement with a sound level meter, the same being susceptible to detection by the human ear as set forth in its definition.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-37. Exceptions.

The operational performance standards established in this Code shall not apply to any of the following noise sources:

- (1) Agricultural activities;
- (2) Unamplified bells, chimes or carillons while being used in conjunction with religious services;
- (3) Emergency energy release devices;
- (4) Emergency work;
- (5) National Warning System (NAWAS) systems used to warn the community of attack or imminent public danger such as flooding, explosion, or hurricane;
- (6) Noise of aircraft operations;
- (7) Public celebrations;
- (8) Surface carriers engaged in commerce by railroad, exclusive of loading and unloading;
- (9) Sound emanating from properly muffled motor vehicles on public right-of-ways. "Properly muffled" shall mean the use of a device to minimize the emission of sound rather than maximize the emission of sound;
- (10) Events with amplified music which are operating within the time and volume parameters set forth in a variance issued by the noise control administrator;
- (11) Collection of residential refuse and residential recyclables;
- (12) Public or private school functions, including sporting events where the function occurs on the property of the school.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-38 Restricted uses and activities.

- (a) Notwithstanding the provisions of Table I and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below.
- (b) Non-commercial or non-industrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Table I. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set for the in Table I do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.
- (c) Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within two hundred fifty (250) feet of a residential property line when operated on commercial or industrial property, between the hours

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of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Table I. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Table I between the hours of 10:00 p.m. and 7:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

- (d) Collection of commercial refuse of commercial recyclables may not be conducted within two hundred fifty (250) feet of any residential property between the hours of 10:00 p.m. and 5:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends. For the purposes of this provision, collection of commercial refuse or commercial recyclables at apartments, apartment houses or complexes, condominiums, and/or co-ops will be classified as commercial collection.
- (e) The operation of any commercial truck with refrigeration units may not be conducted within two hundred fifty (250) feet of any residential property between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends.
- (f) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Table I. This provision shall not apply to the following activities so long as they are operating within the time and volume parameters set forth in a variance issued by the noise control administrator: road maintenance/improvement on preexisting roads, in which daytime construction would prove disruptive of traffic flow; temperature-dependent activities such as the pouring of concrete which are incompatible with mid-day temperature; and, home construction projects performed by the homeowner. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to construction and demolition activities.
- (g) An exterior burglar alarm of a building or motor vehicle must be installed and/or activated in such a manner that the burglar alarm terminates its operation, after activation, within five (5) minutes if the sound is emitted without interruption and ten (10) minutes if the sound emitted is without interruption and ten minutes if the sound emitted is intermittent. At all times, the limits set forth in Table I do not apply.
- (h) Domesticated animals, farm animals, or caged non-farm animals may not make any vocalizations for more than five (5) minutes without interruption or more than fifteen (15) minutes if intermittent. At all other times, the limits set forth in Table I do not apply.
- (i) Personal or commercial vehicular music amplification or reproduction equipment, including but not limited to, vehicles referred to as "broadcast vehicles", shall not be operated in such a manner that it is plainly audible at a distance of one hundred (100) feet in any direction during the hours of 7:00 a.m. to 10:00 p.m. and fifty (50) feet in any direction during the hours of 7:00 a.m. to 10:00 p.m. and fifty (50) feet in any direction during the hours of 10:00 p.m. to 7:00 a.m.
- (j) Self contained, portable, hand-held music or sound amplification or reproduction equipment, including but not limited to devices referred but not limited devices referred to as "music boxes", radios, stereos or any similar devices, shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of one hundred (100) feet in any direction from the equipment during the hours of 7:00 a.m. to 10:00 p.m. and fifty (50) feet in any direction from the equipment during the hours of 10:00 p.m. to 7:00 a.m.
- (k) The sounding of any horn or signal device on any motor vehicle shall be limited to its use as a danger signal, as required by state law.

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- (l) Yelling, shouting, hooting, whistling, or singing on the public street shall not be made in such a manner as to be plainly audible at a distance of one hundred (100) feet in any direction during the hours of 7:00 a.m. to 10:00 p.m. and fifty (50) feet in any direction during the hours of 10:00 p.m. to 7:00 a.m. The shouting or crying of peddlers, hawkers and vendors shall not be made in such a manner as to be plainly audible at a distance of one hundred (100) feet in any direction on weekdays during the hours of 8:00 a.m. to 6:00 p.m. and shall be prohibited on weekends.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-39. Penalties and enforcement.

- (a) Whoever violates any provision of this article shall be subject to punishment as provided in [section 1-8](#) of the Code.
- (b) The town may exercise any other remedy available by law to enforce the provisions of this article including, without limitation, the commencement of an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations, in which even the matter shall proceed as a summary matter in the courts.
- (c) To the extent that a commercial facility violates any provision of this article, and to the extent that said commercial facility is an entity with an identity independent of its owner(s), including without limitation corporations and limited liability companies, then in any of those events, the owner(s) of the commercial facility and the manager or operator of the commercial facility at the time of the violation, in addition to the commercial facility itself, shall be subject to punishment or an enforcement action in accordance with the provisions of this section.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-40. Variances.

Variances shall be for a period not to exceed one (1) week and shall not be granted more than six (6) months in advance of the first effective day of the activity for which the variance is granted; provided, however, that a variance may be granted more than six (6) months in advance for events that are schedules as part of a program or events, or series of same, sponsored by a public body, or having been held for at least the previous five (5) prior years, and/or that have a regular schedule that is published or promoted more than six (6) months in advance of the event or the last event in the series. In the discretion of the noise control administrator, a variance may be granted for an event or series of events that are held on days identifiable by event, which may have a variable date each year, or for alternative locations that are in the same general area, as in the event of rain-outs.

- (1) Any person who owns or operates a sound source in one of the following categories may apply for a variance from the noise control administrator:
- a. Private or public celebrations;
 - b. Nighttime construction projects;
 - c. Homeowner construction projects.
- (2) Applications for a variance shall supply information including, but not limited to:
- a. The nature, time, date and location of the noise source for which such application is made;
 - b. The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client or the public if the variance is not granted;
 - c. The nature and intensity of noise that will occur during the period of the variance;

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- d. A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring therefrom; and
 - e. The name, address and means on contacting a responsible party during the hours of operation for which the variance is issued.
- (3) The noise control administrator will charge the applicant a fee of up to fifty dollars (\$50.00) per variance to cover expenses resulting from the processing of the variance application.
- (4) In making the determination on granting a variance, the noise control administrator shall consider:
 - a. The character and degree of injury to, or interference with, the health and welfare of the citizens of the town and/or the use of property which is caused or threatened to be caused by the sound to result from the variance.
 - b. The social and economic value of the activity for which the variance is sought.
 - c. The ability of the applicant to apply best practical noise control measures.
- (5) The variance shall enumerate the conditions of the variance including:
 - a. Specific dates and times for which the variance is valid;
 - b. Sound level limits which may not be exceeded at the nearest receiving property.
- (6) A variance may be revoked by the noise control administrator if the terms of the variance are violated.
- (7) A variance may be revoked by the noise control administrator, and the issuance of future variances withheld, if there is:
 - a. Violation of one or more conditions of the variance;
 - b. Material misrepresentation of fact in the variance application; or
 - c. Material change in any of the circumstances relied upon by the noise control administrator in granting the variance.
- (8) Any application for a variance must be made two (2) business days or more before the variance is to take effect so as to allow for notice to be given to the surrounding property owners and community. If the noise control administrator grants the variance, notice of the variance will be made public by posting the details of the variance on the outside of the office of the noise control administrator which such posting shall take place at least two (2) business days in advance of the event for which the variance has been granted in order to provide notice of the same.

(Ord. No. 2-2003-2, 2-10-03)

Sec. 10-41. Severability.

If any provision of this article should be invalidated or found to be otherwise unenforceable by any court of competent jurisdiction, the remaining provisions shall be considered severable, and shall remain in full force and effect.

(Ord. No. 2-2003-2, 2-10-03)