

ARTICLE 6

Noise

**[Adopted as Art. 23 of the 1981 Bylaws; amended 4-22-2002
ATM, approved 8-30-2002]**

§ 60-600. Declaration of policy.

In order to control unnecessary, excessive and annoying noise in the Town of Belmont, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this bylaw.

§ 60-605. Definitions. [Amended 5-29-2013 STM, approved 10-8-2013]

Except as may be specified herein, acoustical terminology used throughout this bylaw is that approved as American National Standard Acoustical Terminology (ANSI S1.1-1994) by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this bylaw shall have the meanings as indicated below:

BACKGROUND SOUND LEVEL — The sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

CONSTRUCTION — Those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

dba — The A-weighted sound-pressure level expressed in decibels and referenced to 20 micropascals.

EMERGENCY VEHICLE — Any vehicle operated in an effort to protect, provide or restore public safety, including but not limited to ambulances, police vehicles and fire vehicles.

EMERGENCY WORK — Any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.

ENFORCING PERSON — Any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For

complaints under § 60-620, "enforcing person" shall also include any authorized employee of the Office of Community Development.

IMPACT DEVICE — A construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of amoil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.

INTRUDING NOISE — The total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

Leq EQUIVALENT SOUND LEVEL — The level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period, as measured with a sound-level meter measuring Leq.

PERSON — A person, firm, association, copartnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

RESIDENTIAL PROPERTY — A parcel of real property which under the Belmont Zoning Bylaw is in whole or in part in a Single Residence A, Single Residence B, Single Residence C, Single Residence D, General Residence or Apartment House District or Senior Living or Residential Subdistrict.

SOUND LEVEL — The instantaneous A-weighted sound-pressure level, in decibels, as measured with a sound-level meter set to the "A" weighting scale, slow response.

SOUND-LEVEL METER — An instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound-level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

§ 60-610. Designated noise zones.

The properties hereinafter described are hereby assigned to the following noise zones:

- A. Noise Zone I: All residential properties and the grounds of any school, hospital or similar health care institution, house of

worship or library while the same is in use, and any Cemetery or Open Space Subdistrict.

B. Noise Zone II: All other properties.

§ 60-615. Exterior noise standards.

A. It shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed the greater of:

- (1) The maximum allowable exterior sound level outlined in Table I; or
- (2) Five dB over the background sound level.

Table I, Maximum Allowable Exterior Sound Level

Noise Zone	Nighttime Level	
	Daytime Level 7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
I	55 dBA	45 dBA
II	65 dBA	60 dBA

B. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

§ 60-620. Construction noise standards.

A. Noise associated with construction is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays provided the sound level from:

- (1) Non-impact devices does not exceed 70 dBA as measured over a time interval of 10 minutes with a sound-level meter set to Leq located on any other property, but at least 50 feet from the construction activity; and
- (2) Impact devices does not exceed 90 dBA as measured with a sound-level meter set to slow response located on any other property, but at least 50 feet from the construction activity.

- B. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction shall be limited by the standards of § 60-615.

§ 60-625. Maintenance noise standards.

- A. Noise associated with maintenance is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 8:00 p.m. on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound-level meter set to slow response on any other property, but at least 50 feet from the maintenance activity.
- B. If it is not possible to make an accurate sound-level measurement at the specified distance of 50 feet, measurements made at an alternate distance can be used, if the level is recalculated for an equivalent expected sound level at 50 feet. Calculations shall be made in accordance with established engineering practices for noise measurement and assessment, including those established or recommended by the United States Environmental Protection Agency (USEPA).
- C. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and between the hours of 8:00 p.m. and 9:00 a.m. on Sunday or a legal holiday, noise associated with maintenance shall be limited by the standards of § 60-615.

§ 60-630. Exemptions.

Noise associated with the following activities shall be exempted from the provisions of this bylaw:

- A. Emergency work or emergency vehicles;
- B. The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint;
- C. Activities, other than construction, 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;
- D. Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;

- E. Snow removal performed by snowblowers, snow throwers or snowplows when appropriately outfitted with a muffler; and
- F. Any activity to the extent regulation thereof has been preempted by state or federal law.

§ 60-635. Prima facie violation.

Any measured noise exceeding the sound-level standards as specified in §§ 60-615, 60-620 and 60-625 shall be deemed to be prima facie evidence of a violation of the provisions of this bylaw.

§ 60-640. Violations and penalties.

- A. Violations under this article, in the discretion of the enforcing person, may be enforced by noncriminal disposition as provided in MGL c. 40, § 21D ("§ 21D").
- B. The penalty for a violation under § 60-615 or 60-625 shall be \$25 for a first offense next after the first warning, \$100 for a second offense, \$200 for a third offense, and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.
- C. The penalty for a violation under § 60-620 shall be \$50 for a first offense next after the first warning, \$100 for a second offense, and \$300 for a third offense and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under § 60-620, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.
- D. An enforcing person taking cognizance of a violation of this article or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provision of § 21D. The provisions of § 21D are incorporated by this reference.

§ 60-645. Manner of enforcement.

- A. Violations of this article shall be prosecuted in the same manner as other violations of the Belmont General Bylaws; provided, however, that in the event of an initial violation of the provision of this article, a written notice shall be given the alleged violator which specifies the time by which the condition shall be

corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully corrected within the time period specified in the written notice.

- B. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations shall result in the immediate filing of a complaint. **[Amended 5-29-2013 STM, approved 10-8-2013]**

§ 60-650. Severability.

- A. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.
- B. Nothing in the bylaw shall preclude the Board of Selectmen and Planning Board from establishing a construction plan for a particular large-scale development that is more stringent than the existing bylaw.