

Chapter 76

NOISE

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[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 7-22-1993 as L.L. No. 6-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Alarms - See Ch. 32.

Nuisances - See Ch. 78.

Parades - See Ch. 83.

Peace and Good Order - See Ch. 87.

§ 76-1. Prohibited acts; determination.

- A. The making and creating of an excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill within the village as heard without measurement with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof or heard and measured in the manner prescribed in § 76-2 is hereby declared to be unlawful; except when made under and in compliance with a permit issued pursuant to § 76-2. In proof of a violation of this chapter, evidence of noise heard and measured in the manner prescribed in § 76-2 which is less than that required for a conviction by use of test or measurement as set out in § 76-2 may be offered to prove a violation of this chapter as heard without measurement. The time and location of the noise as well as the above-mentioned characteristics of noise shall be considered in reaching a decision under this chapter.
- B. It shall be unlawful for any person to operate or to allow to be operated any source of sound or any type of vehicle, including power model vehicles, machine, motor, model airplane or device or carry on any other activity in such a manner as would be a violation of § 76-3 or other applicable sections contained herein.

§ 76-2. Classification; measurement.

- A. For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this chapter, the following test measurements and requirements may be applied; provided, however, that a violation of § 76-1 may occur without the following measurements being made.¹
 - (1) Noise occurring within the jurisdiction of the village shall be measured at a distance of at least twenty-five (25') feet from a noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at the property line of the property on which the noise source is located.

¹ Editor's Note: See also § 76-10, Exemptions.

- (2) The noise shall be measured on the A-weighted scale on a sound-level meter of standard design and quality and having characteristics established by the American National Standards Institute. Instrument response shall be fast for motor vehicle measurements and slow for all other measurements.
- (3) For purposes of this chapter, measurements with sound-level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a wind screen.

B. In all sound-level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound-level measurement.

§ 76-3. Permissible noise levels.

A noise measured or registered as provided above from any source other than as provided in § 76-9 at a level which is equal to or in excess of the dB(A) established for the time period and zones listed in this section is hereby declared to be excessive and unusually loud and is unlawful.

Zone	L [maximum] dB(A)	
	7:00 a.m. to next 10:00 p.m.	10:00 p.m. to next 7:00 a.m.
Residential	55	50
Commercial	60	55
Light Industrial	70	65
Industrial	80	75

§ 76-4. Zones defined.

- A. For purposes of this chapter the aforementioned zones shall be defined as follows:

COMMERCIAL:

- (1) An area where offices, clinics and the facilities needed to serve them are located.
- (2) An area with local shopping and service establishments located within walking distances of the residents served.
- (3) A tourist-oriented area where hotels, restaurants, bars and gasoline stations are located.
- (4) A regional shopping center.
- (5) A business strip along Main Street containing offices, retail businesses and commercial enterprises.
- (6) A central business district.
- (7) A commercially dominated area with multiple unit and mixed-use dwellings-

MIXED USE - An area of single family or /live/work dwellings where home-based businesses or commerce can be conducted in such dwellings:

RESIDENTIAL - An area of single or multi-family dwellings where home-based businesses may or may not be conducted in such dwellings. The zone includes areas where multiple-unit dwellings are located. A "residential zone" may include areas containing accommodations for transients such as hotels and mixed-use residential areas with limited office development, but it may not include retail shopping facilities. "Residential zone" includes educational facilities, hospitals, nursing homes and similar noise-sensitive institutions.

- B. Adjacent zones. When a noise source can be measured from more than one (1) zone, the permissible sound level of the more restrictive zone shall govern.

§ 76-5. Permissible increases.

Between the hours of 7:00 a.m. to 10:00 p.m., the noise levels permitted in § 76-3 may be increased by ten (10) dB(A) for a period of not to exceed fifteen (15) minutes in any one-hour period.

§ 76-6. Periodic or impulsive noises.

Where noise is periodic, impulsive or shrill, the permitted sound level for such noises shall be five (5) dB(A) less than those listed in § 76-3.

§ 76-7. Construction projects.

Construction projects (including demolition) shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project.

§ 76-8. Permits.

- A. Application for a permit, for other than vehicular traffic, for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the Fire Inspector or his duly authorized representative. Any permit granted by the Fire Inspector or his duly authorized representative hereunder shall be on a format determined by him and contain all conditions upon which said permit has been granted and shall specify a reasonable time for which the permit shall be effective. The Fire Inspector is authorized to designate a fee which reasonably covers administrative costs incurred for the issuance of said permit. The Fire Inspector or his duly authorized representative may grant the relief as applied for if he finds:
- (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter.
 - (2) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with §§ 76-3 through 76-7.
 - (3) That no reasonable alternative is available to the applicant.
- B. The Fire Inspector may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

§ 76-9. Specific prohibitions.

In addition to the general prohibitions set out above, the following specific acts are declared to be in violation of this chapter:

- A. Animals. It shall be unlawful to own or harbor any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which creates a noise disturbance prohibited by this chapter.
- B. Horns, signaling devices. It shall be unlawful to sound any horn or signaling device on any street or public place in the city for purposes other than motor vehicle, driver and/or pedestrian safety.

- C. Radios, televisions, musical instruments and similar devices.
- (1) It shall be unlawful to operate or play any radio, television, audio tape or CD player, phonograph, musical instrument, loudspeaker, sound-amplifying equipment or similar device on a public right-of-way, in a public park or from a motor vehicle which produces or reproduces sound in a manner as to be plainly audible at a distance of seven and five-tenths (7.5) meters [twenty-five (25') feet].
 - (2) It shall be unlawful to operate or play any radio, television, audio tape or CD player, phonograph, musical instrument, loudspeaker or similar device between 9:00 p.m. and 10:00 a.m. in parks, playgrounds or recreation areas unless a permit has been issued in accordance with § 76-8.
- D. Neighborhood businesses. Businesses operating in commercial areas and under nonconforming use zoning within or adjacent to residential areas shall comply with the provisions of § 76-3. Upon initial determination of a violation, a neighborhood business will be given three (3) months to comply with the terms of the chapter if insulation or other major structural modifications are necessary for compliance. Nothing in this section shall relieve the business owner or manager from the responsibility of taking other reasonable actions directed at reducing noise levels upon determination of a noise violation.
- E. Loudspeakers. It shall be unlawful to use or operate any loudspeaker, loudspeaker system or similar device that is plainly audible upon any street, alley, sidewalk, park or public property for the purpose of commercial advertising or attracting the attention of the public to any building, structure or vehicle without a permit issued in accordance with § 76-8.
- F. Power equipment.
- (1) It shall be unlawful to operate or permit to be operated any power equipment in residential zones outdoors between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and on weekends between 10:00 p.m. and 8:00 a.m.

- (2) During daytime hours (7:00 a.m. to 10:00 p.m. weekdays, 8:00 a.m. to 10:00 p.m. on weekends) power equipment rated five (5) horsepower or less shall not exceed a sound level of seventy-five (75) dB(A) at a distance of fifty (50') feet. Power equipment rated more than five (5) horsepower shall not exceed a sound level of eighty-two (82) dB(A) at a distance of fifty (50') feet.

G. Machinery, fans and air conditioners.

- (1) It shall be unlawful to operate or permit the operation of any stationary machinery, air conditioners, air-handling equipment, fans or similar devices in such a manner as to exceed the permissible noise level of § 76-3 when measured on receiving property.
- (2) Stationary machinery, equipment, fans and air conditioners shall have the following replacement schedule:
 - (a) Installed and operating sources of age ten (10) years or older shall comply with the provisions of this section within a reasonable time period, upon determination of a violation condition. This period shall not exceed six (6) months.
 - (b) Installed and operating sources of age five (5) to ten (10) years shall comply with the provisions of this section within a reasonable time period, upon determination of a violation condition. This period shall not exceed one (1) year.
 - (c) Installed and operating sources of age under five (5) years shall comply with the provisions of this section within a reasonable time period, upon determination of a violation condition. This time period shall not exceed two (2) years.
- (3) Nothing in Subsection G (2) of this section shall be interpreted in such a way as to relieve the person responsible for such stationary machinery, equipment, fans, air-conditioning apparatus or any similar permanently installed mechanical devices from the responsibility of taking other reasonable actions, other than replacement, directed at reducing noise levels from these sources on receiving property.

- H. Noise-sensitive quiet zones. It shall be unlawful to create or cause the creation of any noise other than those noise exemptions stated in § 76-10 within five hundred (500') feet of any noise-sensitive zone so as to exceed the residential land use levels set forth in § 76-3 when measured on the receiving property, provided that conspicuous signs are displayed indicating the presence of the quiet zone.
- I. Vehicle or motor boat repairs and testing.
 - (1) Vehicle repair. It shall be unlawful for any person within any zone in the village to repair, rebuild or test any vehicle in such a manner that the noise produced exceeds the loud use levels established in § 76-3 when measured at the receiving property line.
- J. Motor vehicles. Motor vehicle sound level limits and equipment shall be in compliance with provisions of any state law, including but not limited to §§ 386 and 375, Subdivisions 31 and 31-a, of the New York State Vehicle and Traffic Law.

§ 76-10. Exemptions.

The following are exempt from the sound level limits of § 76-3:

- A. Domestic power tools, lawnmowers and agricultural equipment, between the hours of 7:00 a.m. and 10:00 p.m. weekdays and 8:00 a.m. and 10:00 p.m. on weekends.
- B. Noises resulting from any authorized emergency vehicles when responding to an emergency.
- C. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment. However, regarding burglar alarms, no person shall operate or cause to be operated an audible burglar alarm unless such alarm is capable of and shall terminate operation within thirty (30) minutes after such alarm is first activated.
- D. Noises made during a parade or concert sponsored by the village or for which a permit has been granted by the village.

- E. Any noise resulting from activities of a temporary duration for which a special permit has been granted pursuant to this chapter and which conforms to the conditions and limits stated thereon.
- F. Noises from nonamplified church bells and chimes.
- G. Interstate railway locomotives and cars.
- H. Installation and maintenance of public and private utilities.

§ 76-11. Penalties for offenses.

- A. Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be fined in the following manner:
 - (1) First offense: Not less than fifty dollars (\$50) and not more than two hundred fifty dollars (\$250), or be imprisoned for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.
 - (2) Second offense: If the second offense occurs within six (6) months of the first offense, the fine shall be not less than one hundred dollars (\$100) and not more than two hundred fifty dollars (\$250), or be imprisoned for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.
- B. The provisions of §§ 76-13 and 76-14 shall also apply to this section.

§ 76-12. Enforcement.

Violations of this chapter shall be prosecuted in the same manner as other violations of the village's codified local laws; provided, however, that in the event of a violation of this chapter, an appearance ticket will be given to the alleged violator prior to the issuance of an information and complaint. For the first offense, no information and complaint shall be issued in the event that the cause of the violation is removed, the condition abated or fully corrected within five (5) days of the receipt of the appearance ticket. In the event that the alleged violator cannot be located in order to serve the appearance ticket 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 five day period shall commence at the date of the day following the mailing of such notice.

§ 76-13. Additional remedy.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 76-14. Severability.

It is the intention of the Village Board that each separate provision of this chapter shall be deemed independent of all other provisions herein, and it is further the intention of the Village Board that if any provision of this chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

§ 76-15. Definitions.

For the purpose of this chapter, the following definitions will apply:

A-WEIGHTED SOUND PRESSURE LEVEL - The sound pressure level as measured on an American National Standards Institute (ANSI) sound-level meter using the A-weighted network. It is the approximate noise level as heard by the human ear, measured in decibels, and denoted as dB(A).

AMBIENT NOISE LEVEL - The sound pressure level of the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources and excluding the specific noise under investigation; the A-weighted sound pressure level exceeded ninety percent (90%) of the time (L90).

CONSTRUCTION - Any site preparation, assembly, erection, substantial repairs, alterations or similar action for or of public or private rights-of-way, structures, utilities or similar property.

DAYTIME HOURS - 7:00 a.m. until 10:00 p.m. on weekdays, 8:00 a.m. until 10:00 p.m. weekends, unless otherwise stated herein.

DECIBEL - A logarithmic unit of measure used in describing the relative intensity of sound denoted as dB(A).

DEMOLITION - Any dismantlings, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

DOMESTIC POWER TOOLS - Power tools used for the purpose of completing hobby projects, home improvement projects and any other projects which are not used or sold for profit.

EMERGENCY VEHICLES - Authorized publicly or privately owned ambulances or motor vehicles belonging to a fire or police department or to any federal, state, parish or municipal agency, provided that said vehicles are in use as emergency vehicles by one authorized to use said vehicles for that purpose.

IMPULSIVE SOUND - Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

L MAX - The maximum A-weighted sound level allowed.

MOTOR VEHICLE - Any two-or-more-wheeled vehicle or machine, propelled or drawn by mechanical power and used on the public roads and highways in the transportation of passengers or property, or any combination thereof, which is required to be licensed, but does not include vehicles, locomotives or cars operated exclusively on rail or rails.

NIGHTTIME HOURS - 10:00 p.m. until 7:00 a.m. weekdays, 10:00 p.m. until 8:00 a.m. weekends, unless otherwise stated herein.

NOISE - Any sound which exceeds the maximum permissible sound levels by land use categories as given in § 76-4.

NOISE-SENSITIVE AREA - Posted, designated quiet zones containing but not limited to operations of schools, libraries open to the public, churches, hospitals and nursing homes.

PERSON - Any individual, association, partnership, corporation, joint venture or any entity, public or private in nature.

PLAINLY AUDIBLE SOUND - Any sound for which the information content of that sound is unambiguously communicated to the listener, such as but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

POWERED MODEL VEHICLE - Any self-propelled airborne, waterborne or landborne model plane, model vessel or model vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

POWER EQUIPMENT - Any machine, tool or similar device driven or operated by a motor.

PROPERTY BOUNDARY - An imaginary line at the ground surface and its vertical extension which separates the immovable property owned or inhabited by one person from that owned or inhabited by another person.

PUBLIC RIGHT-OF-WAY- Any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

SOUND-AMPLIFYING EQUIPMENT - Any equipment, machine or device used for the sound amplification of the human voice, music or any other sound.

SOUND LEVEL- In decibels, the A-weighted sound pressure level obtained by use of a sound-level meter as specified by the American National Standards Institute.

SOUND-LEVEL METER - An instrument for measuring sound, including a microphone, amplifier, output meter and weighting network that is sensitive to pressure fluctuations.

§ 76-16. Motorcycles and off-highway motor vehicles.

A. Findings and purpose.

- (1) The Village Board finds that the driving, riding and use of motorcycles, motor-driven cycles and off highway motor vehicles on public and private property within the limits of village is the cause of noise and dust and of the destruction of plants, landscaping and other real and personal property, and such conduct adversely affects the comfort and privacy of the residents of the village. Because the conduct may be intermittent, fleeting, moving or caused by persons who are minors, other provisions of this Code, as well as other legal remedies, are inadequate to control said conduct and its adverse effects. The provisions of this section relating to the regulation of motorcycles, motor-driven cycles or off-highway motor vehicles are therefore necessary for the public welfare.

- (2) The Village Board declares that the purpose of this section is to exercise the general police power in order to protect the enjoyment and use of public and private property, to protect the rights of privacy, to preserve property and personal values, to promote peace and quiet and to provide management for and promote proper recreational use of motorcycles, motor-driven cycles or off-highway motor vehicles within the village.
 - (3) This section shall not apply to the driving, riding and use of motorcycles, motor-driven cycles or off-highway motor vehicles on streets and highways or in other areas, which are specifically governed or preempted by this Code, or the motor vehicle laws of the State of New York.
- B. Definitions. The following terms, as used in this section, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

PROPERTY - Any public or private property which is not an improved public street or highway, or an improved private street constructed in accordance with village standards and approved by the village.

VEHICLE - A motorcycle, motor-driven cycle or motor vehicle, including but not limited to motor scooters, motor bikes, minibikes and snowmobiles.
- C. Use. It shall be unlawful for any person to drive or ride any vehicle upon any property which is within six hundred sixty (660') feet of a residence or other occupied structure or property authorized for motorcycle use as required herein, except that this Subsection C shall not apply in the following instances:
 - (1) Where such vehicle is ridden, driven or used upon property by the owner, resident or tenant of such property; and provided that such operation shall not be within six hundred sixty (660') feet of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants.

- (2) Where such vehicle is ridden, driven or used by a visitor when such visitor is accompanied by or has in his possession a copy of a written authorization from the owner or occupant of such property, and provided that such operation shall not be within six hundred sixty (660') feet of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants.
 - (3) Where such use is permitted pursuant to the Zoning Code¹ of the Village of Cold Spring.
- D. Mufflers. It shall be unlawful for any person to drive, ride or use a vehicle upon any property unless said vehicle is at all times equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of the motor vehicle laws of the State of New York, as the same now exist or may hereafter be amended, and no muffler exhaust system shall be equipped with a cutout, bypass or similar device.
- E. Other regulations. The regulations contained herein do not supersede or preclude the enforcement of zoning regulations or any other regulations contained in this Code, which are applicable to any conduct regulated hereby.

¹ Editor's Note: See Chapter 134 Zoning.