

Chapter 76

NOISE

§ 76-1. Definitions.

§ 76-2. Prohibited acts.

§ 76-3. Determination.

§ 76-4. Classification; measurement.

§ 76-5. Permissible Noise levels.

§ 76-6. Districts defined.

§ 76-7. Permissible increases.

§ 76-8. Periodic or Impulsive Noises.

§ 76-9. Construction projects.

§ 76-10. Relief.

§ 76-11. Specific prohibitions.

§ 76-12. Exemptions.

§ 76-13. Penalties for offenses.

§ 76-14. Enforcement.

§ 76-15. Additional remedy.

§ 76-16. Severability.

§ 76-17. Use of Off-Road ~~Motorcycles and off-highway~~ Motor Vehicles.

[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.

Zoning - See Ch. 134.

§ 76-1. 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 9:00 p.m. on weekdays, 8:00 a.m. until 9:00 p.m. weekends and holidays, 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.

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.

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 - 9:00 p.m. until 7:00 a.m. weekdays, 9:00 p.m. until 8:00 a.m. weekends and holidays, unless otherwise stated herein.

OFF-ROAD MOTOR VEHICLE Off-road vehicle means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or natural terrain.

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, drone or rocket.

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

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.

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.

UNREASONABLE NOISE - Any sound which exceeds the maximum permissible Sound Levels by land use categories as given in § 76-6.

VEHICLE - A motorcycle, motor-driven cycle or Motor Vehicle, including but not limited to cars, motor scooters, motor bikes, minibikes and snowmobiles.

VILLAGE – The Village of Cold Spring

§ 76-2. Prohibited acts:

A. The making and creating, within the Village, of an excessive or unusually loud ~~noise~~Noise, or an Unreasonable Noise which, as heard without measurement, is considered to be objectionable because it is Impulsive, continuous, rhythmic, periodic or shrill, and causing public inconvenience, annoyance or alarm, or recklessly create a risk thereof; or, Unreasonable Noise that is heard and measured in the manner prescribed in § 76-4, is hereby declared to be unlawful; except when made under and in compliance with a permit issued pursuant to § 76-4.

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 Powered Model Vehicles, machine, Motor, model airplane or device or carry on any other activity in such a manner as would be a violation of § 76-5 or other applicable sections contained herein.

§ 76-3 Determination

In proof of a violation of this Chapter, evidence of ~~Noise~~Unreasonable Noise heard and measured in the manner prescribed in § 76-4 which is less than that required for a conviction by use of test or measurement as set out in § 76-4 may be offered to prove a violation of this Chapter as heard without measurement. The time and location of the ~~Noise~~Unreasonable Noise as well as the above-mentioned characteristics of ~~Noise~~Unreasonable Noise shall be considered in reaching a decision under this Chapter.

§ 76-4. Classification; measurement.

A. For purposes of determining and classifying any ~~Noise~~Unreasonable 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 § 76-2 may occur without the following measurements being made.¹

(1) ~~Noise~~Unreasonable Noise occurring within the jurisdiction of the Village shall be measured at a distance of at least twenty-five (25) feet from an ~~an~~ NoiseUnreasonable Noise source located within the Public Right-Of-Way, and if the ~~Noise~~Unreasonable 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~~Unreasonable Noise source is located.

(2) The ~~Noise~~Unreasonable Noise shall be measured on the A-Weighted scale on a Sound-Level Meter of standard design and quality and having characteristics established

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

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-noise~~ of the environment from all sources at the time and place of such Sound-Level measurement.

§ 76-5. Permissible noise levels.

A ~~Noise~~Unreasonable Noise measured or registered as provided above from any source other than as provided in § 76-11 at a level which is equal to or in excess of the dB(A) established for the time period and districts listed in this section is hereby declared to be excessive and unusually loud and is unlawful.

WEEKDAYS

Zoning District	L [maximum] dB(A) 7:00 a.m. to next 9:00 p.m.	L [maximum] dB(A) 9:00 p.m. to next 7:00 a.m.
Residential, Mixed Use <u>R-O, R-N, R-L, MF, B-3, B-4, PMU</u>	55	50
Business <u>B-1, B-2</u>	60	55
<u>PR, C, ERC</u> Parks and Recreation	40	35

WEEKENDS & HOLIDAYS

Zoning District	L [maximum] dB(A) 8:00 a.m. to next 9:00 p.m.	L [maximum] dB(A) 9:00 p.m. to next 8:00 a.m.
<u>R-O, R-N, R-L, MF, B-3, B-4, PMU</u> Residential, Mixed Use	55	50
<u>B-1, B-2</u> Business	60	55
<u>PR, C, ERC</u> Parks and Recreation	40	35

§ 76-6. Districts defined.

For purposes of this Chapter the aforementioned districts are as defined in § 134 Zoning.

§ 76-7. Permissible increases.

Between the hours of 7:00 a.m. to 9:00 p.m. on weekdays, and 8:00 a.m. to 9:00 p.m. on weekends and holidays , the ~~Noise~~noise levels permitted in § 76-3 may be increased by ten (10) dB(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

§ 76-8. Periodic or Impulsive Noises.

Where ~~Noise~~Unreasonable Noise is periodic, Impulsive or shrill, the permitted Sound Level for such ~~Noises-noises~~ shall be five (5) dB(A) less than those listed in § 76-3.

§ 76-9. Construction projects.

Construction projects (including Demolition) shall be subject to the maximum permissible ~~Noise~~noise levels specified for business districts 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.

§ 76-10. Relief.

A. Application for relief, for other than vehicular traffic, from the ~~Noise~~noise level designated in § 76-5 Permissible ~~Noise~~noise levels on the basis of undue hardship may be made to the Code Enforcement Officer. or his/her duly authorized representative. No relief will be granted from any prohibitions listed in § 76-11 Specific prohibitions. Any relief granted by the Code Enforcement Officer or his/her duly authorized representative hereunder shall be in a format determined by him/her and contain all conditions upon which said relief has been granted and shall specify a reasonable time for which the relief shall be effective. The Code Enforcement Officer or his/her duly authorized representative may grant the relief as applied for if he/she finds:

(1) That additional time is necessary for the applicant to alter or modify their activity or operation to comply with this Chapter.

(2) That the activity, operation or ~~Noise~~Unreasonable Noise source will be of temporary duration and cannot be done in a manner that would comply with §§ 76-5 through 76-9.

(3) That no reasonable alternative is available to the applicant.

B. The Code Enforcement Officer may prescribe any conditions or requirements he/she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

§ 76-11. 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~~Unreasonable 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, digital audio player, loudspeaker or similar device between 9:00 p.m. and 10:00 a.m. in parks, playgrounds or recreation areas.

D. Businesses. Businesses operating in business districts or as a pre-existing legal nonconforming use within or adjacent to residential or mixed use districts shall comply with the provisions of § 76-5. Upon initial determination of a violation of § 76-5, a 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 Unreasonable Noise ~~Noise~~ levels upon determination of a ~~Noise~~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 relief issued in accordance with § 76-10.

F. Power Equipment.

(1) It shall be unlawful to operate or permit to be operated any Power Equipment in residential districts outdoors between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, and on weekends and holidays between 9:00 p.m. and 8:00 a.m. Examples of Power Equipment includes, but is not limited to, lawn mowers, leaf blowers, backhoes, air nailers, chain saws, etc.

(2) During Daytime Hours (7:00 a.m. to 9:00 p.m. weekdays, 8:00 a.m. to 9:00 p.m. on weekends and holidays) 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.

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~~Unreasonable Noise level of § 76-5 when measured on receiving property.

H. Vehicle or motor boat repairs and testing.

~~Vehicle repair.~~ It shall be unlawful for any Person within any district in the Village to repair, rebuild or test any Vehicle in such a manner that the ~~Noise~~noise produced exceeds the loud use levels established in § 76-5 when measured at the receiving property line.

I. 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.

§ 76-12. Exemptions.

The following are exempt from the Sound Level limits of § 76-5:

A. ~~Noise~~Noisess resulting from any authorized Emergency Vehicles when responding to an emergency.

B. 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.

- C. ~~Noise~~Noises made during a parade or concert sponsored by the Village or for which relief has been granted by the Village.
- D. Any ~~Noise~~Noise resulting from activities of a temporary duration for which relief has been granted pursuant to this Chapter and which conforms to the conditions and limits stated thereon.
- E. ~~Noise~~Noises from nonamplified church bells and chimes.
- F. Interstate railway locomotives and cars.
- G. Installation and maintenance of public and private utilities.
- H. Sporting events.
- I. Emergency Construction as determined by the Code Enforcement Officer.
- J. Emergency Activities required by the Village.
- K. Events sponsored by the local school district in celebration of student or athlete achievements.

§ 76-13. Penalties for offenses^[M1].

~~On the first offense of this chapter, the Code Enforcement Officer or a Cold Spring Police Officer will issue a verbal or written notice to remedy. No fine or summons will be issued if the cause of the violation is abated or corrected. For subsequent violations, any person who violates any provision of this chapter, upon conviction, shall be guilty of a violation and shall be subject to a fine not to exceed \$500 for each offense. The Village may also seek injunctive relief to prevent the continued violation of this chapter.~~

~~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 (50) dollars and not more than two hundred fifty (250) dollars, 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 (100) dollars and not more than two hundred fifty (250) dollars, or be imprisoned for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.~~

~~B. — The provisions of §§ 76-15 and 76-16 shall also apply to this section.~~

§ 76-14. Enforcement^[M2]

The provisions of this chapter shall be enforced by the Cold Spring Police Department ~~and/or~~ the Code Enforcement Officer, or other officials designated by the Village Board of Trustees. The investigating police officer, Code Enforcement Officer or other designated official who is a witness to the noise which is in violation to this chapter is authorized to issue a summons.

~~Violations of this Chapter shall be prosecuted by the Code Enforcement Officer or the Police Department 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/her last known address or at the place where the violation occurred, in which event the five (5) day period shall commence at the date of the day following the mailing of such notice. The Village Board is empowered to seek injunctive relief against any Person or business in addition to any other penalty contained herein to abate any such nuisance.~~

§ 76-15. 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~~ sensitivity 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 ^[M3]_[JF4] by a court of competent jurisdiction.

§ 76-16. 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.

§ 76-17. ~~Motorcycles and off-highway~~ Off-Road Motor Vehicles.

A. Findings and purpose.

(1) The Village Board finds that the driving, riding and use of motorcycles, motor-driven cycles and off ~~road~~ highway Motor Vehicles on public and private property within the limits of Village is the cause of ~~Noise~~ Unreasonable 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~~~~Off~~~~-r~~~~Road~~~~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~~~~Off~~~~-r~~~~Road~~~~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~~~~Off~~~~-r~~~~Road~~~~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.A.~~ C.A. 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 ~~Vehicle~~~~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 Chapter 134 (Zoning) of the Village of Cold Spring.

~~D.B.~~ D.B. 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.C. 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.