

**PUBLIC NOTICE
PUBLIC HEARING
TOWN OF JAMESTOWN**

Notice is hereby given that the Town Council of the Town of Jamestown will conduct a public hearing on November 2, 2020 at 6:30 p.m. on the following proposed amendment to the Code of Ordinances regarding Chapter 22 – Noise. Opportunity shall be given to all persons interested to be heard upon the matter at the public hearing. The following proposed ordinance amendment is under consideration and may be adopted and/or altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing. The proposed amendment is available for review and/or purchase at the Town Clerk’s Office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Holidays and on the Town’s web site at www.jamestownri.net.

PURSUANT TO EXECUTIVE ORDER NO. 20-05 EXECUTED BY GOVERNOR GINA RAIMONDO ON MARCH 16, 2020, THIS MEETING WILL BE TELECONFERENCED VIA ZOOM: The public is invited to observe and participate in the deliberations of this meeting by accessing the meeting link set forth herein. For those without access to video observation platforms, you may also call in to listen to the deliberations of this meeting by using the call in phone number provided herein. To participate during Public Hearing or Public Input you will press *9 to raise your hand. Please join the Zoom Meeting as follows:

**JOIN VIA PHONE: 1-646-558-8656 or 1-301-715-8592 or 833 548 0276 US Toll-free.
WHEN PROMPTED, ENTER MEETING ID: 834 0932 7837
PRESS # AGAIN TO JOIN THE MEETING**

**JOIN VIA COMPUTER OR MOBILE APP:
Meeting ID: <https://zoom.us/j/83409327837>**

THIS MEETING WILL ALSO BE LIVE STREAMED: To view the meeting with no interaction:<http://158.123.195.41/OTRMedia/Town2020/Others2020/StreamPrimJtown.htm>

Section 1. Be it hereby ordained by the Town Council of the Town of Jamestown that the Jamestown Code Of Ordinances, Chapter 22, Noise, as the same may have been heretofore amended, is hereby amended by changing the text of the Chapter, as follows:

NOTE: words set as ~~striketrough~~ are to be deleted from the ordinance; words underlined are to be added to the ordinance.

See Exhibit A, attached hereto and incorporated herein by reference.

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to Chapter 22 of the Town of Jamestown’s Code of Ordinances.

Section 3. This Ordinance shall take effect upon its passage.

Exhibit A

Sec. 22-61. - Statement of public policy.

The town council finds and declares that extreme and excessive noise adversely affects the health, safety and welfare of its residents and citizens.

Sec. 22-62. - Purpose, title and scope.

(a) The purpose of this article is to establish objective standards to control extreme and excessive noise by setting maximum permissible sound levels for certain times and places in town.

(b) This article may be cited as the "Noise Ordinance of the Town of Jamestown."

(c) This article applies within the town limits as specified below.

~~Sec. 22-63. - Measurement of sound.~~

~~Decibel measurement under this article shall be made with a sound level meter, which shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified by American National Standards Institute (ANSI) standard 1.4-1971. For purposes of this article, a sound level meter shall contain A-weighted scale and both fast and slow meter response capability.~~

Sec 22-63 Definitions

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall have the meanings shown. Definitions of technical terms used shall be obtained from publications of acoustical terminology used by the American National Standards Institute (ANSI) or its successor body.

A-SCALE (dBA) The sound level in decibels measured using the A-weighted network as specified in ANSI S1.4-1971 for sound level meters. The level is designated "dB(A)" or "dBA."

CONSTRUCTION Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipping of buildings, roadways, infrastructure, or utilities, including drilling, blasting, mining, land clearing, grading, excavating and filling.

DECIBEL (dB) A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro pascals (20 micronewtons per square meter).

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

EMERGENCY WORK Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

EXTERIOR GENERATOR Gas, propane or diesel-powered engine designed to generate electricity outside the confines of a building.

~~**LOT** Any area, a tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting platted lots under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.~~

~~**MOTORCYCLE** Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles and motor scooters.~~

~~**MOTOR VEHICLE** Any motor operated vehicle designed for use on the public highways.~~

NOISE DISTURBANCE Any sound which:

- A. Exceeds the dBA level for such sound set out in this chapter and;
- B. Annoys, disturbs or endangers the comfort, repose, peace or safety of a reasonable person of normal sensitivities.

~~**OFF ROAD RECREATIONAL VEHICLE** Any motor vehicle, including road vehicles but excepting watercraft, used off public roads for recreational purposes.~~

PERSON Any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the Town.

~~**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.~~

PORTABLE COOLING/HEATING COMPRESSOR

The gas, propane or diesel compressor attached to a truck, trailer or temporary storage unit whose purpose is to heat or cool the space to which it is attached.

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

PUBLIC RIGHT-OF-WAY Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

PUBLIC SPACE Any real property, including any structure thereon, which is owned or controlled by a governmental entity.

PURE TONE Any sound which can be distinctly heard as a single pitch or set of single pitches.

REAL PROPERTY BOUNDARY An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RECEIVING LAND USE The use or occupancy of the property which receives the transmission of sound as defined in this section.

~~RESIDENTIAL~~ Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

SOUND An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks used to measure sound pressure levels, which complies with American National Standards Institute Standard 1.4-1971.

ZONING DISTRICTS Those districts established by and defined in Chapter 82, Zoning, of the Code of the Town of Jamestown.

Sec. 22-64. - Freedom of speech and expression unaffected.

This article should not be interpreted, construed or applied in a manner that is inconsistent or violate of the First Amendment to the U.S. Constitution or article I, section 21 of the Rhode Island Constitution.

Sec. 22-65. - Prohibited noises.

No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

~~No person shall make, continue or cause to be made or continued, except as permitted, any noise in excess of the decibel limits set forth in this article.~~

Sec 22-66 Permitted activities and hours

A. Fireworks displays. Fireworks displays licensed by the State of Rhode Island Fire Marshal are permitted between the hours of 7:00 p.m. and 11:00 p.m.

B. Loading and unloading. Any person shall be permitted to load, unload, open, close or handle crates, containers, garbage cans and dumpsters, building materials or similar objects outdoors between the hours of 5:00 a.m. and 9:00 p.m.

C. Construction and manufacturing.

(1) Drilling, blasting, mining, manufacturing or demolition work. The operation of any tools or equipment in drilling, blasting, mining, manufacturing or demolition work or in preventive maintenance work for public service utilities is permitted between the hours of 7:00 a.m. and 5:00 p.m., except on Sundays or legal holidays. The terms of this section shall not apply to emergency work or repair work performed by or for governmental entities or public service utilities for public safety and welfare.

(2) Building construction activities. The operation of building construction, alteration or repair activities is permitted between the hours of:

- i. 7:00 a.m. to 8:00 p.m. Monday, Tuesday, Wednesday, and Thursday
- ii. 7:00 a.m.to7:00 p.m. Friday
- iii. 8:00 a.m.to 6 p.m. Saturday
- iv. 10:00 a.m. to 6:00 p.m. Sundays and legal holidays operation is permitted only when directly performed by the property owner or tenant.

D. Domestic power tools. The use of small, domestic power tools or equipment, such as a saw, drill, sander, grinder or similar device, used outdoors in residential areas is allowed but subject to the noise levels set out in Sec. 22-68.

E. Lawn care and grounds maintenance equipment. The use of lawn care and grounds maintenance equipment, such as a lawnmower, leaf blower, lawn or garden tool, if used and maintained in accordance with the manufacturer's specifications, is permitted between the hours of 7:00 a.m. and 8:00 p.m. Monday, Tuesday, Wednesday, Thursday; 7:00 a.m. and 7:00 p.m. Friday; 8:00 a.m. and 6 p.m. Saturday.

Sundays and legal holidays operation is permitted between the hours of 10:00 a.m. and 6:00 p.m. only when directly performed by the property owner or tenant.

F. Operation of snow-removal, street cleaning and public works equipment. The operation of snow-removal, street cleaning and public works equipment by the Department of Public Works is allowed at any time, provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds being emitted there from.

G. Town-permitted activities:

(1) Parades or processions for which a parade permit has been issued, provided the conditions of the permit are complied with.

(2) Any athletic event or recreational activity which is conducted and sponsored or funded in part by any elementary or secondary school or the Town of Jamestown, ~~on property owned and controlled by the Town of Jamestown~~, or athletic event or recreational activity which is conducted by any child care facility which is licensed by the State of Rhode Island.

(3) Band concerts or music provided, sponsored or funded, in whole or in part, by the Town of Jamestown or by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, or on property owned and controlled by the Town of Jamestown for which a valid permit has been obtained.

H. Church or clock carillons, bells or chimes. The emission of sound from church or clock carillons, bells or chimes is permitted at any time.

I. Emergency signaling devices. The testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds. The emission of sound for the purpose of alerting persons to the existence of an emergency is permitted at any time.

J. The operation of an exterior generator or portable cooling/heating compressor is permitted at any time during a power outage or a power reduction, or for testing or routine maintenance of the generator or compressor only between the hours of 10:00 a.m. and 6:00 p.m. Such testing or maintenance shall be restricted to no more 30 minutes during any seven day period.

K. The operation of an exterior generator or portable cooling/heating compressor is permitted at any time for use on or in conjunction with an active construction site, provided all other provisions of the Noise Ordinance are met with respect to hours of construction, and provided further that continuous operation of a generator or compressor at a construction site is permitted where said operation is integral to the nature of the construction project itself and industrial activities otherwise permitted in an industrial zone.

L. Aircraft. The movements of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations are permitted.

Sec. 22-67. -- Maximum permissible sound levels.

22-67. Specific activities prohibited.

The following acts and the causing thereof are declared to be in violation of this chapter:

A. Radios, television sets, musical instruments and similar devices. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device, or any combination of the same, which produces, reproduces or simulates amplified sound:

(1) In such a manner as to create a noise disturbance across a real property boundary.

(2) In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or space, or in a boat on public waters.

(3) In such a manner as to create a noise disturbance to any person other than the operator of the device when operated by any person on either a common carrier, public beach, park, playground or other public recreational area.

~~B. Animals and birds. No person shall own, possess or harbor any animal or animals, bird or birds which frequently or for continued duration howls, barks, meows, squeaks, or makes other sounds which create a noise disturbance across a real property boundary.~~

C. Vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.

D. Motorboats, jet skis and similar devices. No person shall operate or permit the operation of any motorboat, jet ski or other similar device in any lake, river, stream or other waterway in such a manner so as to cause a noise disturbance and/or as to exceed a sound level of 50 dBA at 200 feet or the nearest shoreline, whichever is less.

F. Motor vehicles.

~~(1) Motor vehicle maximum sound levels. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right of way at any time in such a manner as to create a noise disturbance.~~

~~(2) Adequate mufflers or sound dissipative devices.~~

~~(a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or sound dissipative device in good working order and in constant operation.~~

~~(b) No person shall remove or render inoperative or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.~~

~~(3) Motor vehicle horns and signaling devices. The following acts and the causing thereof are declared to be in violation of this chapter:~~

~~(a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger or as provided in the Vehicle Code.~~

~~(b) The sounding of any horn or other auditory signaling device so as to create or cause a noise disturbance.~~

Sec 22-68 Penalties Sec 22-68 Sound Levels by receiving land use

A. Maximum permissible sound levels by receiving land use. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, no person shall operate or cause to be operated, make, continue or cause to be made or continued any noise or source of sound as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use.

Maximum permitted sound levels are as follows:

Table 1

<u>Zoning District</u>	<u>Time</u>	<u>Decibel Limit</u>
<u>OS-I, OS-II, RR-200, RR-80, R-40, R-20, R-8</u>	<u>8:00 a.m. to 10:00 p.m.</u>	<u>70</u>
<u>OS-I, OS-II, RR-200, RR-80, R-40, R-20, R-8</u>	<u>10:00 p.m. to 8:00 a.m.</u>	<u>60</u>
<u>CL, CD, CW, DC, P</u>	<u>All</u>	<u>75</u>

B. Correction for character of sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Subsection A Table 1 shall be reduced by five dBA.

C. Measurement of sound.

(1) Decibel measurements shall be made with a sound level meter, which shall be an instrument in good operating condition meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain an A-weighted scale and both fast and slow meter response capability.

(2) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in ANSI Standard 1.4-1971 for Type II instruments.

(3) When the location or distance prescribed in this chapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this chapter.

Sec. 22-69. -- Construction activities.

~~No person shall operate or permit the operation of any tools, vehicles or equipment involved or related to any construction or demolition work during the following hours: Monday through Friday between 8:00 p.m. to 7:00 a.m. the following day; Saturday from 6:00 p.m. to 7:00 a.m. the following day; and Sunday from 7:00 a.m. to 7:00 a.m. the following day. Such activities are also prohibited from 7:00 a.m. to 7:00 a.m. the following day on all federal and state holidays.~~

Sec. 22-69. Sound variances.

~~A. The Town Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.~~

~~B. Any person seeking a sound variance under this section shall file an application with Town Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.~~

~~C. All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.~~

~~D. In determining whether to grant or deny an application or revoke a variance previously granted, Council shall balance hardship to the applicant, the community and other persons if the sound variance is not allowed against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.~~

~~E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.~~

~~F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.~~

Sec. 22-70. -- Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Construction means any and all outside activity necessary or incidental to the erection, assembling, altering, installing, repair or equipping of buildings, roadways, infrastructure, or utilities including drilling, blasting, mining, land clearing, grading, excavating and filling.~~

~~Demolition means any dismantling, intentional destruction or removal of structures, infrastructure, utilities, public or private right of way surfaces, or similar property.~~

Sec. 22-70- Enforcement.

This article shall be implemented, administered and enforced by the town police department.

Sec. 22-71. -- Exemptions.

The provisions of this article shall not apply to:

- (1) ~~The operation of snow removal equipment at any time provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds.~~
- (2) ~~Lawn care and grounds maintenance equipment in normal daytime use if used and maintained in accordance with the manufacturer's specifications.~~
- (3) ~~Public emergency activities required to ensure the health, safety and welfare of the citizenry.~~
- (4) ~~The normal day to day agricultural activities associated with the raising of livestock and crops.~~
- (5) ~~Ordinary or routine maintenance and/or repair performed by the owner or resident of a property.~~

Sec.22-71- Landlords and Property Owner Liability and Responsibility

The owner of any property shall be concurrently subject to all fines and penalties as prescribed in Sec. 22-72, regardless of the offending individual(s).

Sec. 22-72- Fines and Penalties.

(a) Any person found to be in violation of this article shall be punished as follows:

- (1) The first offense shall be punished by the issuance of a written warning to immediately cease and desist the violation.
- (2) The second offense within any twelve month period, shall be punished by a fine of ~~\$25.00.~~ \$250.00.

(3) The third offense and each subsequent offense within twelve month period, shall be punished by a fine of ~~\$100.00.~~ \$500.00.

(b) Any such person charged with a violation of this article shall pay said fine as prescribed within 5-days or shall be summonsed to appear before the District Court.

~~Sec. 22-72. -- Enforcement.~~

~~This article shall be implemented, administered and enforced by the town police department.~~

~~Sec. 22-73. -- Penalties.~~

~~Any person found to be in violation of this article shall be punished as follows:~~

- ~~(1)
The first offense shall be punished by the issuance of a written warning to cease and desist the violation.~~
- ~~(2)
The second offense shall be punished by a fine of \$250.00 and a notice to cease and desist the violation.~~
- ~~(3)
The third offense and each subsequent offense shall be punished by a fine of \$500.00 and a notice to cease and desist the violation.~~

~~Sec. 22-74. -- Sunset clause.~~

~~The provisions of this article shall expire on December 14, 2010, unless the town council takes affirmative action to extend this article.~~