**CITY OF NEWBURYPORT**

 **IN CITY COUNCIL**

**ORDERED:**

June 13, 2022

**AN AMENDMENT TO AN ORDINANCE ENTITLED HEALTH AND SANITATION SPECIFICALLY NOISE**

Be it ordained by the City Council of the City of Newburyport as follows:

THAT Chapter 8 Health and Sanitation, Article IV Nuisances, Division 1. Generally of the Code of Ordinances, City of Newburyport, Massachusetts, is hereby amended to read as follows, with *deletions double-stricken and in italicized*, and additions *double-underlined and italicized*:

**Sec. 8-101. – Noise.**

(a) *No unnecessary emissions of noise.* No person owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance, or to take necessary precautions, cause, suffer, allow, or permit unnecessary emissions of noise from said source of sound.

(1) This section shall apply to, but shall not be limited to, prolonged unattended sounding of burglar alarms, construction and demolition equipment which characteristically emit sound but which may be fitted and accommodated with equipment such as enclosures to suppress sound, or may be operated in a manner so as to suppress sound, suppressible and preventable industrial and commercial sources of sound, and other manmade sounds that cause noise.

(2) This section shall not apply to sounds emitted during and associated with: (A) parades, public gatherings, or sporting events, for which all required city permits have been issued; (B) emergency police, fire, and ambulance vehicles; (C) police, fire, and civil and national defense activities; (D) customary, domestic equipment such as lawn mowers, leaf blowers, and power saws, between the hours of 7:00 a.m. and 10:00 p.m; (E) dredging and related sand placement operations where the Mayor has placed a written waiver, which must include the terms and duration of the waiver, on file with the Clerk’s Office and said waiver has been submitted to the City Council as a communication.

(b) *Noise defined.* For purposes of this section, noise shall mean sound of sufficient intensity and/or duration as to: (i) cause a nuisance; (ii) be injurious, or be on the basis of current information, potentially injurious to human health or animal life, to vegetation, or to property; or (iv) unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business. A source of sound shall be considered to constitute unlawful noise under this section if such source: (i) increases the broadband sound level by more than ten (10) dB(A) above ambient; and/or (ii) produces a "pure tone" condition - when any octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

(c) *Measurement.* The criteria of the previous subsection shall be measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceed[ed] ninety (90) percent of the time, measured during vehicle or equipment operating hours. The ambient may also be established by other means with the consent of the Massachusetts Department of the Environmental Protection.

(d) *Vehicle deliveries and idling vehicles and mechanical equipment.* Except in non-residential districts, or as expressly approved in writing, in advance, by the mayor, the city marshal, the director of the department of public services, or the administrative official charged to enforce the recycling ordinance, no vehicular deliveries shall occur, nor shall any commercial or non-commercial vehicle or mechanical equipment be left idling or otherwise operating audibly within the City of Newburyport between the hours of 10:00 p.m. and 7:00 a.m., on any day of the year. This restriction shall apply, without limitation, to all construction vehicles and equipment related to demolition and construction.

(e) *[Enforcement.]* The provisions of this section shall be enforced by the police department or the department of health, and the building commissioner in the connection with activities undertaken pursuant to the state building code, and the zoning administrator in connection with activities undertaken pursuant to the Newburyport Zoning Ordinance.

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Councillor Sharif I. Zeid

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Councillor Mark R. Wright

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Councillor James J. McCauley