

# Chapter 88

## Noise

### GENERAL REFERENCES

- Mass Public Assemblies — See Ch. 44.  
Recreation areas and beaches — See Ch. 101.  
Entertainment Permits — See Ch. 150.
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#### § 88-1 Purpose.

The purpose of this Chapter is to minimize the exposure of residents and visitors in the Village of Greenport to unreasonably loud or excessive sound, which is harmful to the peace, welfare, comfort, safety, convenience, good order and prosperity of residents and visitors of the Village of Greenport. It is the public policy and findings of the Village of Greenport Board of Trustees that every person is entitled to be protected from sound that is detrimental to life, health and the enjoyment of his or her property. The intent of the Village of Greenport Board of Trustees is to enact legislation that: (A) serves to control the level of sound in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose and the quality of the environment by establishing limits on sound levels within the Village of Greenport; (B) provides for appropriate exceptions to the provisions of this Chapter to allow for the functioning of commercial businesses and the operation of construction, landscaping and emergency equipment; and (C) provides clear guidance that certain sound-producing activities constitute unreasonable noise and are therefore prohibited by this Chapter.

#### § 88-2 Definitions; word usage.

- A. All terminology defined herein that relates to the nature of sound and the mechanical detection and recordation of sound is in conformance with the terminology of the American National Standards Institute or its successor body.
- B. As used in this chapter, the following terms shall have the meanings indicated:

#### **A-WEIGHTED SOUND PRESSURE LEVEL**

The sound pressure level measured in decibels with a general-purpose sound level meter complying with the provisions of the ANSI Specifications for Sound Level Meters (ANSI S1.4 1971), properly calibrated and operating on the A-weighting network. The level so read is hereinafter abbreviated as “**dba**”.

#### **ABATEMENT**

An action to reduce, cease, remove, stop or otherwise reduce the level of any sound or sound source.

#### **ANSI**

The American National Standards Institute.

#### **CODE ENFORCEMENT OFFICER**

Any person who is designated to enforce the ordinances and regulations for the Village as appointed by the Board of Trustees of the Village pursuant to § 53-3 from time to time; *provided* that if such person is enforcing the provisions of this Chapter that relate to a specific dba and require the use of sound level meter, such person shall only be entitled to enforce such provisions to the extent that he or she has been trained in the measurement of sound using such a device.

#### **COMMERCIAL AREA**

Any real property located within any of the areas zoned by Chapter 150 of the Code of the Village of Greenport and the Zoning Map of the Village of Greenport as CR (Retail Commercial) District, CG (General Commercial) District or WC (Waterfront Commercial) District, including any public waterway or public right-of-way located within the jurisdictional boundaries of any such zone or district, but excluding any public park that is located in any such zone or district.

### **COMMERCIAL LANDSCAPER**

Any person who, for a fee, uses mowers, tractors or other tools or machinery for the purpose of cutting grass and providing other services associated with landscaping.

### **CONSTRUCTION**

Any site preparation (including blasting), assembly, erection, demolition, repair, alteration or similar action for, or of, public or private rights-of-way, buildings, structures, utilities or other property.

### **CONSTRUCTION DEVICE**

Any power device or equipment designed and intended for use in construction, including, but not limited to, air compressors, bulldozers, backhoes, trucks, shovels, derricks and cranes.

### **DECIBEL (dB)**

The unit of measurement for sound pressure level. The number of "decibels" of a measured sound is equal to twenty (20) times the logarithm of the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound twenty (20) micropascals, abbreviated "dB".

### **DEMOLITION**

Any dismantling, intentional destruction or removal of buildings, structures, rights-of-way, roadways or other similar property.

### **EMERGENCY WORK**

Any work or action required to (1) restore property to a safe condition following a public calamity, (2) protect persons or property from imminent exposure to danger or (3) to provide or restore immediately necessary utility and emergency services, including, but not limited to, repairing water, gas, electricity, telephone and sewer facilities and public transportation, removing fallen trees on public rights-of-way and abating other life-threatening conditions.

### **ENTERTAINMENT PERMIT**

Has the meaning specified in Chapter 150.

### **GAS-POWERED LEAF BLOWER**

Any portable, handheld or backpack style power equipment that is powered by fuel and used in any landscape maintenance, construction, property repair or property maintenance for the purpose of blowing, moving, removing, dispersing, vacuuming or redistributing leaves, dust, dirt, grass clippings, cuttings and trimmings from trees and shrubs or any other type of litter or debris.

### **IMPULSIVE SOUND**

A sound of short duration usually less than one (1) second and of high intensity with an abrupt onset and rapid decay. Examples of "impulsive sound" would be explosions, drop forge impacts, discharge of firearms.

### **LANDSCAPING**

The maintaining of and/or providing care of lawns, including, but not limited to, mowing, cutting and trimming, also the gathering, raking, blowing and/or removal of leaves, grass or lawn clippings and/or other debris on any lot, plot or parcel of land. This includes regular maintenance as well as fall and spring clean-ups. "LANDSCAPE" shall have a similar meaning.

**LANDSCAPING EQUIPMENT**

Any engine or motor-power device or equipment, including any gas-powered leaf blower, utilized in connection with landscaping.

**MOTOR VEHICLE**

Any vehicle that is propelled or drawn on land by an engine or motor, including, but not limited to, passenger cars, trucks, truck-trailers, campers and motorcycles.

**MOTORBOAT**

Any vessel that operates on water and that is propelled by a motor, including, but not limited to, boats, barges, water ski towing devices, jet skis and hover craft.

**MULTI-DWELLING BUILDINGS**

Any building wherein there are two (2) or more dwelling units.

**PERSON**

An individual, association, firm, syndicate, company, trust, partnership, corporation, department, bureau or agency, or any other entity recognized by law.

**PERSONAL SOUND REPRODUCTION DEVICE**

Any battery powered radio, tape player, compact disc player, MP3 player, phone or a portable compact bluetooth speaker, in each case of a type that is generally considered to be for personal use.

**PLAINLY AUDIBLE**

Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to be plainly audible sound.

**PUBLIC HOLIDAY**

The first day of January, known as New Year's Day; the third Monday of January, known as Dr, Martin Luther King, Jr. Day; the twelfth day of February, known as Lincoln's birthday; the third Monday in February, known as Washington's birthday or Presidents' Day; the last Monday in May, known as Memorial Day; the second Sunday in June, known as Flag Day; the nineteenth day of June, known as Juneteenth; the fourth day of July, known as Independence Day; the first Monday in September, known as Labor Day; the second Monday in October, known as Columbus Day or Indigenous People's Day; the eleventh day of November, known as Veterans' Day; the fourth Thursday in November, known as Thanksgiving Day; and the twenty-fifth day of December, known as Christmas Day; each general election day and each day appointed by the President of the United States or the Governor of New York State as a day of general thanksgiving, general fasting and prayer or other general religious observance day.

**PUBLIC PARK**

Has the meaning specified in Chapter 101.

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, boulevard, lane, road, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

**PUBLIC SPACE**

Any real property (including any public park) or structures thereon that are owned or controlled by a

governmental entity.

**PUBLIC WATERWAY**

Any navigable waterway within the boundaries of the Village of Greenport, including the area commonly referred to as “Mitchell Park Marina”

**REAL PROPERTY LINE**

- (1) The imaginary line, including its vertical extension, that separates one (1) parcel of real property from another.
- (2) The vertical and horizontal boundaries of a dwelling unit that is one (1) in a multi-dwelling-unit building.

**REPETITIVE IMPULSIVE SOUND**

Any sound that is composed of individual impulsive sounds which are repeated continuously.

**RESIDENTIAL AREA OR PROPERTY**

Any real property located within an area zoned by Chapter 150 of the Code of the Village of Greenport and the Zoning Map of the Village of Greenport as R-1 One-Family Residence District, R-2 One- and Two-Family Residence District or Park District and including any public waterway or public right-of-way located within the jurisdictional boundaries of any such zone or district.

**SHORT-TERM RENTAL**

Has the meaning specified in § 103-4 of the Code.

**SOUND**

Any variation in ambient barometric pressure.

**SOUND LEVEL METER**

An instrument, including a microphone, an amplifier and output meter and frequency-weighting networks, for the measurement of sound levels.

**SOUND PRESSURE LEVEL**

The weighted sound pressure level in decibels obtained using a sound level meter and frequency-weighting network, such as A, B or C. If the frequency weighing employed is not indicated, the A-weighting slow response shall apply.

**SOUND REPRODUCTION DEVICE**

Any device that is designed to be used or is actually used for the production, reproduction or amplification of sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc player, phonograph, loudspeaker, public address system or any other electronic device used for the amplification of sound.

**SOUND SIGNALING DEVICE**

Any device that is designed to be used or is actually used to produce a sound signal, but not spoken language, including, but not limited to, any horn, whistle, bell, gong, siren, rattle, clapper, hammer, drum or air horn.

**SOUND SOURCE**

Any activity or device whatsoever that produces sound.

**SOUND SOURCE SITE**

Any one (1) parcel of land, or a tract of land consisting of two (2) or more parcels that includes all contiguous land and water areas under the ownership or control of a person in or upon which one (1) or

more sound sources are located. The "sound source site" includes all individual sound sources that are located on such site, whether stationary, movable or mobile. A "sound source site" is created by the installation of one (1) or more sound sources thereon.

### **SPECIAL EVENT PERMIT**

Has the meaning specified in Chapter 44.

### **UNREASONABLE NOISE**

Sound that:

- (1) Endangers or injures any person or animal; or
- (2) Annoys, disturbs or discomforts a reasonable person of normal sensitivities; or
- (3) Adversely affects the sleep, repose, health or safety of any person.

Standards to be considered in determining whether "unreasonable noise" exists in a given situation include but are not limited to the following:

- (a) The volume of the sound.
- (b) The intensity of the sound.
- (c) Whether the nature of the sound is usual or unusual.
- (d) Whether the origin of the sound is natural or unnatural.
- (e) The volume and intensity of the background sound, if any.
- (f) The proximity of the sound to residential sleeping facilities.
- (g) The nature and zoning district of the areas within which the sound emanates.
- (h) The time of day or night the sound occurs.
- (i) The time duration of the sound.
- (j) Whether the sound source is temporary.
- (k) Whether the sound is impulsive sound or a repetitive impulsive sound.

### **§ 88-3 Enforcement; Use of Sound Level Meter.**

- A. The provisions of this chapter shall be enforced by one or more code enforcement officer and/or any police officer of the Town of Southold.
- B. Any sound measurement utilizing a sound level meter for purposes of determining compliance with this Chapter 88 shall be made as follows:
  - (1) Using a sound level meter that is designated by its manufacturer as meeting the precision requirements of ANSI S1.4 or IEC 651 for Type 1 or Type 2 sound level meters.
  - (2) Using a sound level meter shall be appropriately calibrated and adjusted as necessary by means of an acoustical calibrator of the coupler-type to assure meter accuracy within the tolerances set forth by the ANSI.

- (3) Using a “slow” meter response, except as necessary to identify a repetitive impulsive sound.
  - (4) Using a windscreen approved by the manufacture of the instrument.
  - (5) At a height of at least four feet above the ground and not closer to the sound source than the real property line of the property on which the sound source is located.
  - (6) For purposes of any outdoor measurement, the back of the curb, the outside edges of driveways, fences, hedges, docks or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the applicable real property line of the applicable sound source site.
  - (7) When measuring sound indoors, the microphone shall be at least three feet distant from any wall, ceiling or partition and the average measurement of at least three microphone positions throughout the room shall be determined.
  - (8) When measuring sound within a multi-dwelling unit, all doors and windows shall be closed and the measurements shall be taken in the center of the room most affected by the applicable sound or sound source.
  - (9) Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property or a multi-dwelling property.
- C. In all cases, the maximum sound pressure level permitted in any applicable zoning district shall be determined based on the applicable zoning district of the property from which the sound pressure level is measured. When a sound source can be identified and the sound emanating therefrom can be measured in more than one zoning district, the limits of the most restrictive zoning district shall apply.

**§ 88-4 Maximum permissible sound pressure levels.**

- A. Subject to § 88-6, no person shall make, continue to make, cause to be made or continued any sound, or use any sound source, within the boundaries of the Village of Greenport, including any waters or beaches falling within the jurisdictional boundaries of the Village, in such a manner as to create a sound pressure level that exceeds the particular limits set forth in Table I when measured at or beyond the real property line of the applicable sound source site, except those acts specifically prohibited pursuant to § 88-5 for which no measurement of sound pressure level is required.
- B. Subject to § 88-6, no person who is in custody and control of any property or the owner and operator of any motor vehicle or motorboat located within the boundaries of the Village of Greenport shall permit any other person to make, continue to make, cause to be made or continued any sound, or use any sound source on any such property in such a manner as to create a sound pressure level that exceeds the particular limits set forth in Table I measured at or beyond the real property line of the applicable sound source or which shall create any sound that would otherwise be prohibited pursuant to § 88-5 except to the extent expressly permitted pursuant to § 88-6. For purposes of this Chapter, the following persons shall be presumed to be in “custody and control” of a property: (1) an individual owner or owners where the premises are owner-occupied, (2) (a) in the case of any short-term rental, the owner or owners of such property and (b) in all other cases where a property is rented or leased to a tenant, the tenant or tenants occupying such property, (3) (a) in the case of any business that has an entertainment permit, each responsible person specified in the application relating to the issuance of such entertainment permit and (b) in the case of any other business, the manager or the person in charge of such business and (4) in the case of any motor vehicle or motorboat, the operator thereof. A person found to be in custody and control of any property that is the subject of a violation of this Chapter shall be responsible for the payment of any fines imposed pursuant to § 88-9. Any person who is in custody or control of any short-term rental shall ensure that any person staying therein from time to time is aware of the applicable

limitations set forth in this Chapter 88, including the limitations set forth in § 88-5 below.

**§ 88-5 Prohibitions.**

Subject to § 88-6, no person shall make, continue to make, permit or cause to be made or continued any unreasonable noise as defined in § 88-1 within the boundaries of the Village of Greenport, including any waters or beaches following within the jurisdictional boundaries of the Village of Greenport. In particular, without limitation of the foregoing provision of this Section, the following enumerated acts are declared to be in violation of this Section:

A. Sound reproduction devices.

(1) The operation, playing, use or permitting the operation or playing or use of any sound reproduction device that results in any sound that is plainly audible within 50 feet from the applicable sound source (including, any motor vehicle or motorboat) ~~or at the real property site on which or from which such sound is produced~~ as follows:

(a) in any residential area:

(i) on any Friday, Saturday or any public holiday occurring between May 15 and October 1 of each calendar year, between the hours of 11:00 p.m. of such day and 10:00 a.m. of the immediately following day; and

(ii) on any other day, between the hours of 10:00 p.m. of such day and 10:00 a.m. of the immediately following day; and

(b) in any commercial area:

(i) on any Friday or Saturday occurring between May 15 and October 1 of each calendar year, between the hours of 12:30 a.m. and 10:00 a.m. of the immediately following day;

(ii) on any public holiday occurring between May 15 and October 1, between the hours of 11:00 p.m. of such day and 10:00 a.m. of the immediately following day;

(iii) on any other Friday or Saturday, between the hours of 11:00 p.m. of such day and 10:00 a.m. of the immediately following day; and

(iv) on any other day, 10:00 p.m. of such day and 10:00 a.m. of the immediately following day.

Notwithstanding the foregoing, the operation, playing, use or the permitting of operating, playing or use of any sound reproduction device in any public space, public right-of-way or public waterway shall be subject to the provisions of § 88-5A(4) below.

(2) The operation, playing, use or the permitting of operating, playing or use of any sound reproduction device for commercial or business advertising purposes or for the purposes of attracting attention to any performance, show or sale or display of merchandise in connection with any commercial operation, as follows:

(a) in front or outside of any building, structure or on any property abutting or adjacent to a public right-of-way or public space, where the sound therefrom is plainly audible in any residential area or on any adjacent public right-of-way or public space; or

(b) on any boat or in any other manner on the waters within the jurisdiction of the Village of Greenport; or

(c) anywhere on any public right-of-way or public space.

- (3) The operation, playing, use or permitting of the operation, playing or use of any sound reproduction device by any person in any commercial area in connection with providing any entertainment (as defined in Chapter 150 of the Village Code), the hosting of any catered event (as defined in Chapter 150 of the Village Code) or the hosting of any mass assembly event (as defined in Chapter 44 of the Village Code) unless:
  - (a) the use thereof is otherwise permitted pursuant to § 150-51J of the Village Code without a valid entertainment permit as required under § 150-51 of the Village Code; or
  - (b) such person has (i) a valid and existing entertainment permit issued pursuant to § 150-51 of the Village Code and the use of such sound reproduction device is otherwise being operated in accordance with the terms of such entertainment and (ii) to the extent applicable, a special event permit issued pursuant to Chapter 44 and the use of such sound reproduction device is otherwise being operated in accordance with the terms of such special event.
- (4) The operation, playing, use or permitting the operation, playing or use of any sound reproduction device at any public space, public waterway or any public right-of-way except as follows:
  - (a) the use by an individual person of a personal sound reproduction device to the extent that either:
    - (i) the user thereof is using headphones or earphones in connection therewith; or
    - (ii) the sound emanating from such personal sound reproduction device is played at a low level and is not plainly audible either (A) within 25 feet from the emitting sound source or (B) at the real property line of any property located in any residential area; or
  - (b) the use thereof is expressly authorized pursuant to a special event permit issued pursuant to Chapter 44.

**B. Vocal Disturbances and Peddling.**

- (1) Vocal disturbances, including shouting, yelling, hooting, or the making of any other loud outcries, exclamations or other loud or boisterous sounds or loud and boisterous singing by any person or group of persons or the use of any device to amplify the aforesaid sound on, or in, any public right-of-way, public waterway or public space between the hours of (a) the earlier of (i) the hour on which any public space is required to close pursuant to § 101-2 of the Village Code and (ii) 9:30 p.m. of any day and (b) 8:00 a.m. of the immediately following day except to serve as a danger warning.
- (2) Vocal disturbances, including shouting, yelling, hooting, crying or bellowing or the use of any device to amplify any such sound by any peddler, hawker or vendor for the purpose of advertising goods, services, wares or merchandise. The provisions of this subsection shall not apply to the sale of merchandise, food and beverages (a) pursuant to a special event permit duly issued in accordance with Chapter 44 or (b) to the extent the applicable peddler, hawker or vendor is in receipt of a valid and effective permit issued pursuant to Chapter 197 of the Code of the Town of Southold and is otherwise operating in accordance with the terms thereof.
- (3) Human conversation from a group gathering area on any property (including at any swimming pool or hot tub) intermittently or at continuously for a period of more than 15 minutes at a volume plainly audible inside a closed residence located at 25 feet or more from such gathering area between the hours of 9:30 p.m. and 8:00 a.m. The actual words of the conversation need not be intelligible; audibility of the sound of conversation under the conditions described is sufficient to constitute unreasonable noise. A closed residence shall be a dwelling unit located in a residential area which has all windows and doors closed to the outside.



- .C. Noise-Sensitive Zones. The creation of any sound by means of any device or otherwise on any public right-of-way, public waterway or public space adjacent to any school, court, house of worship or public library while such facility is in use or adjacent to any hospital or nursing home at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities. Any such activity that is plainly audible within any such noise sensitive zone shall constitute *prima facie* evidence of a violation of this Section.
- D. Loading and Unloading. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 8:00 p.m. and 7:00 a.m. the following day so as to be plainly audible across or into any residential property.
- E. Sound Signaling Devices. Causing or permitting to be caused the sounding of any sound signaling device on or in any motor vehicle or motorboat except to serve as a danger warning.
- F. Motor Vehicles and Motorboats
  - (1) The operation of any engine of any motor vehicle, motorboats or any auxiliary equipment attached thereto for a period longer than five (5) minutes in any hour while such motor vehicle or motorboat is stationary, for reasons other than traffic congestion, on any private property, public waterway, public right-of-way or other public space such that the sound therefrom is plainly audible at either (a) a distance of 50 feet from such motor vehicle, motorboat or equipment or (b) at any property located in a residential area, on any day between the hours of (i) 9:00 p.m. of such day and (ii) 8:00 a.m. of the following day.
  - (2) The operation of any motor vehicle or motorboat that does not include a muffler or other sound-suppression equipment in operable condition.
  - (3) Any disturbing or raucous sounds caused on any public right-of-way, public spaces or in public waterway at any time by racing or accelerating the engine of any motor vehicle or motorboat while moving or not moving, by the willful backfiring of any engine and exhaust from the engine tailpipe or muffler or from the screeching of tires.
  - (4) The operation of any sound reproduction device on any motorboat or other vessel so that the sound therefrom is plainly audible at a distance of 25 feet from such motorboat or vessel.
- G. Construction. The operation or permitting of the operation of any construction device, including, but not limited to, construction and demolition work, excavating or earthmoving equipment:
  - (1) Between the hours of (a) on any Monday through Saturday, 8:00 p.m. of such day and 8:00 a.m. the following day on weekdays or (b) at any time on Sundays or on any public holiday, such that the sound is plainly audible on any adjacent property.
  - (2) At any other time such that the continuous sound-in-air level at or across the real property line of the sound source site on which such construction device is being operated exceeds an L10 of eighty (80) dBA.
  - (3) At any other time such that the impulsive sound-in-air level has a peak sound pressure level at or across the real property line of the sound source site on which such construction device is being operated is in excess of one hundred thirty (130) dBA.
- H. Landscaping Equipment. The operation or permitting of the operation of any landscaping equipment by any commercial landscaper during the following days and times: (1) Monday through Friday between the hours of 7:00 p.m. on such day and 8:00 a.m. on the following day, (b) Saturday, prior to 9:00 a.m. or after 6:00 p.m. or (c) on any Sunday or public holiday,

- I. Air Conditioning and Heat Pump Equipment. The operation of any air-conditioning or air-handling equipment, swimming pool or spa pump, exhaust fan or other heat-pump based equipment in such a manner as to exceed 55 dBA over a ten (10)- minute period of time, measured from a distance of 50 feet or more from the sound source.
- J. Garbage Pick Up. Garbage collection between the hours of 8:00 p.m. and 7:00 a.m. in such manner as to be plainly audible across or into any residential property.
- M. Animals. Barking or other sounds made by a dog or other domestic animal intermittently or continuously for more than 15 minutes.

**§ 88-6 Exceptions.**

The following activities and/or sounds are exempt from the provisions of this Chapter:

- A. Sounds created by bells, chimes or carillons not operating continuously for more than five (5) minutes in any hour.
- B. Emergency work as defined in Section 88-2 (B). Sounds from snowblowers, snow throwers and snowplows, when operated with a muffler, for the purpose of snow removal and when used in accordance with manufacturer's specifications,
- D. Sound from stationary emergency signaling devices owned and operated by any public utility, municipal subdivision, fire department or ambulance corps when used in connection with an emergency or for testing purposes, including, but not limited to, train switching.
- E. Sound from a burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within fifteen (15) minutes after it has been activated and shall not be operated more than fifteen (15) minutes in any one-hour period.
- F. Sounds from generators during periods when there is no electrical service available due to natural disaster or power outage; *provided* that the sound created by any stationary generator shall not exceed 75dBA at any real property line of the applicable sound source site.
- G. Sound resulting from any vehicle when responding to an emergency call or acting in time of emergency.
- H. Outdoor speakers aboard excursion boats or ferries used to announce sights or make other customary announcements to passengers; *provided* that the sound created thereby shall not exceed 65dBA as measured on any property located within the boundaries of the Village of Greenport.
- I. Sounds caused by natural phenomena or wildlife.
- J. Stationary amplified announcements at athletic events, political events or civic events.
- K. Sound resulting from or, in connection with, any event that is the subject of a special event permit that specifically provides for relief from the provisions of this Chapter 88 during the approved duration of such event; *provided* that any applicable sound reproduction device used in connection with any such event shall be expressly permitted to be used pursuant to the terms of such special event permit.
- L. Sound associated with any demonstration (as defined in Chapter 44) that is permitted to occur without a special event permit pursuant to the terms of Chapter 44, other than any sound that results from the use of a sound reproduction device of any type other than a musical instrument, megaphone or bullhorn.

**§ 88-7 Prima Facie Evidence of Offenses.**

The following shall constitute *prima facie* evidence of a violation of this Code:

- A. The occurrence of any activity set forth in §§ 88-5A through 88-5M that is plainly audible at a distance of 50 feet from the location from where the sound source thereof is located.
- B. With respect to unreasonable noise of the types described in §§ 88-5A(1), 88-5A(3), 88-5A(4), 88-5B(1), 88-5B(3), 88-5D, 88-5F(1), 88-F(2), 88-(G)(1), 88-(H), 88-5(J) or 88-5(M), the making of separate and distinct but substantially similar reports to a code enforcement officer or police officer by two or more persons living in separate dwelling units (which may include apartments or condominiums located within the same building) alleging that the applicable sound constitutes unreasonable noise and specifying as to the time, duration and general location of the sound source of the applicable unreasonable noise.
- C. The occurrence of any of the activities set forth in § 88-5 that any individual person hears and reports to a code enforcement officer or police officer and the occurrence of which is corroborated by a code enforcement officer or police officer.

**§ 88-8 Penalties for offenses.**

- A. Any person who violates any provision of this chapter shall be guilty of a violation and shall be subject to penalties in the following manner:
  - (1) Upon a first violation, by a fine of not less than \$250 nor more than \$1500.
  - (2) Upon a second violation in any twelve (12)-month period, by a fine of not less than \$1000 nor more than \$2500.
  - (3) Upon a third violation in any twelve (12)-month period by a fine, of not less than \$1500 nor more than \$5000.
  - (4) Upon a fourth or consecutive violation in any twelve (12)-month period by a fine, of not less than \$5,000 nor more than \$20,000.
  - (4) Each action that constitutes a violation of this Chapter 88, which either continues or is repeated more than 30 minutes after the issuance of any notice of abatement has been issued pursuant to § 88-9 or a code enforcement officer or police officer has issued an order to cease said activity, shall be considered an additional separate and distinct offense.
- B. Nothing herein contained shall prevent the Village of Greenport from taking whatever action in law or equity as may be available to prevent and remedy an offense, including, without limitation, any action for declaratory judgment and/or the enjoinder of any continued violation of this Chapter or any action by the Village Board of Trustees pursuant to §150-51 to revoke any entertainment permit as a result of violations by any person of this Chapter 88.

**§ 88-9 Abatement.**

- A. Except as provided in Subsection **B** below, in lieu of issuing a summons, any code enforcement officer or police officer may issue a warning requiring abatement of any source of sound alleged to be in violation of this chapter.
- B. A warning shall not be issued when the applicable code enforcement officer or police officer has reason to believe that there will not be compliance with the warning, when the alleged violator has been served with a previous warning or had previously been convicted for a violation of this chapter.

**§ 88-10 Construal.**

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from

other law.

**Attachments:**

[088a Appendix A](#)

APPENDIX A

TABLE I

Maximum Permissible A-Weighted Pressure Levels by Receiving Property Category, in dBA

	Receiving Property Category			
Sound Source Property Category	Residential, Public Space or any Public Right-of-Way or Public Waterway abutting a Residential Area		Commercial or any Public Right-of-Way or Public Waterway abutting a Commercial Area, Public Waterway	
	12:30 a.m. to 8:00 a.m. (next day)	8:00 a.m. to 12:30 a.m. <sup>(next day)</sup>	12:30 a.m. to 8:00 a.m.	8:00 a.m. to 12:30 a.m. (next day)
Residential Area, Public Space or any Public Right-of-Way or Public Waterway abutting a Residential Area	50	65	60	70
Commercial Area, or any Public Right-of-Way or Public Waterway abutting a Commercial Area	50	65	60	70