**CHAPTER VII - ENVIRONMENT**

**Article 1. – General**

**Secs. 7-1—7-9. Reserved.**

**Article 2. - Litter[[1]](#footnote-1)**

**Sec. 7-10. Prohibited acts; penalty.**

The throwing or placing of waste material or paper in any highway in the town, except in receptacles provided for such waste, is prohibited, and any person violating the provisions of this section shall, upon conviction, be fined as provided in the town fee schedule.

(Ord. No. 4-99, § 1, 3-2-1999)

**Secs. 7-11—7-19. Reserved.**

**Article 3. - Junked, Wrecked, Abandoned Property**

**Part A. - Generally**

**Sec. 7-20. Legislative intent.**

It is found and declared that junked or abandoned vehicles, junked or abandoned appliances and other unsightly materials upon any property in town:

1. Are considered a public nuisance and have an adverse effect upon the public landscape and surrounding property values;
2. Are detrimental to public health, safety and welfare;
3. Are or may become harborages of rodents and insects; and
4. Constitute a potential source of contamination to the environment;

The preservation of the public health, safety and welfare, protection of the environment and the maintenance of property values are proper concerns for the town.

(Ord. No. 03-11, 6-21-2011)

**Secs. 7-21—7-29. Reserved.**

**Part B. - Vehicles[[2]](#footnote-2)And Unsightly Materials**

**Sec. 7-30. Definitions.**

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

*Inoperable* means inherently incapable of performing the function for which designed by virtue of parts missing, essential components broken or severely damaged or incapable of being registered with the state department of motor vehicles.

*Junk equipment, machinery or appliances* means residentially or commercially used equipment, machinery and appliances that are in an inoperable condition or abandoned. Equipment and machinery includes power equipment such as lawn mowers and construction equipment that is self-propelled, pushed manually or pulled by a motor vehicle or vehicle as defined herein.

*Junk vehicle* means any motor vehicle or vehicle, or part thereof, which is not currently registered with the department of motor vehicles for lawful operation on the highways of this state or is in an inoperable condition or abandoned.

*Motor vehicle* means automobiles, cars, trucks, camp trailers, boat trailers, house trailers, mobile homes, motorcycles or any other wheeled vehicle designed or used for highway use and required to be registered by the state department of motor vehicles.

*Vehicle* means any device suitable for the conveyance of people or property, whether operated on wheels, runners, blades, tracks, a cushion of air or any other means. This includes tractors, bulldozers, asphalt rollers and other construction equipment not designed for highway use and not required to be registered by the state department of motor vehicles.

*Unsightly material* means junk vehicles or parts thereof, junk equipment, machinery or appliances or parts thereof as well as, but not limited to, unusable, unused or discarded furniture, unused or discarded building materials, unused fuel or chemical tanks, garbage, debris and refuse, as well as any other material which the enforcement official deems to be unsanitary or a nuisance.

(Ord. No. 2-68, § 1, 5-27-1968; Ord. No. 03-11, 6-21-2011)

**Cross reference—**Definitions generally, chapter I § 1-2 of this code book.

**Sec. 7-31. Prohibited acts.**

1. No person shall store, park or keep on his own land, or shall permit to remain on his own land or land that is in his custody or under his care, any junk motor vehicle, junk vehicle, or junk equipment, machinery or appliance for a period exceeding twenty (20) days, unless such material is enclosed in an authorized building or container.
2. No person shall store or deposit on his own land, or shall permit to remain on his own land, or land that is in his custody or under his care any unsightly material for a period exceeding twenty (20) days, unless such material is enclosed in an authorized building or container.

(Ord. No. 2-68, § 2, 5-27-1968; Ord. No. 03-11, 6-21-2011)

**Sec. 7-32. Notice of violation; Abatement of nuisance by owners.**

1. If the provisions of the foregoing sections are violated, the enforcement official shall serve written notice, either personally or by certified mail, upon the owner and any tenant or occupant or person having custody or charge of any such property where such violation exists, stating the nature of the violation and ordering compliance with the provisions of this chapter. The owner, tenant or occupant, or person in charge of said property shall have fifteen (15) days from being notified of any violations to comply with this chapter.
2. The owners, tenants, lessees and/or occupants of any lot within the corporate limits of this town upon which such storage is made, and also the owners and/or lessees of such personally involved in such storage (all of whom are referred to collectively in this section as “owners”), shall jointly and severally abate such nuisance by the prompt removal of such personally into completely enclosed buildings *authorized* to be used for storage purposes, if within the corporate limits of the town, or otherwise to remove the nuisance to a location outside the corporate limits not later than fifteen (15) days after notice is given to the owner by the official designated to enforce these sections.
3. The notice of violation shall be substantially in the following form:

**NOTICE OF VIOLATION**

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Name and address of all owners, tenants or occupants)*

As the owner, tenant, occupant or person in custody of: \_\_*(Exact address where violation exits)* in the Town of Berlin you are hereby notified that you are in violation of chapter VII, article 3 of the Town of Berlin Code Book which is entitled “Junked, Wrecked, Abandoned Property” and **a copy of which is attached hereto.** The nature of the violation is as follows:

*(List with as much specificity as possible all items of junk or unsightly material)*

You are hereby ordered to remove said items within fifteen (15) days from the date of this notice. Failure to comply with this notice within the time stated will subject you to a fine of up to $100.00 per day of noncompliance.

In addition to possible fines, the town may also take action to abate said violation or file a legal action in the Superior Court to obtain injunctive relief or abatement of this violation. The costs and expenses incurred by the town to abate or enjoin this violation shall be chargeable to you and shall constitute a lien against your property, and may be collected in the manner provided by law for the collection of delinquent taxes.

TOWN OF BERLIN Dated:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Authorized signature)*

(Ord. No. 2-68, § 3, 5-27-1968; Ord. No. 03-11, 6-21-2011)

**Sec. 7-33. Exceptions.**

This ordinance shall apply equally to residential and commercial properties except as follows:

1. This ordinance shall not apply to farm equipment used by a person, including on a seasonal basis, whose principal occupation is the cultivation, operation, or management of a farm (as defined in § 1-1q of state statutes)for gain or profit, either as owner or tenant. The term “farm equipment” does not include any type of motor vehicle licensed by the state for travel on the public highways except vehicles bearing farm plates. “Farm equipment” does not include junk vehicles, junk equipment, machines and appliances or unsightly materials as defined herein;
2. This ordinance shall not apply to licensed junkyards when operated in conformance with all zoning regulations of the town and all applicable state statutes;
3. This ordinance shall not apply to inoperable or junk vehicles in the possession of a person or business that sells, repairs, reconditions, remodels or transports such vehicles provided such use of the property is in conformance with the town zoning regulations and all applicable state statutes; and
4. This ordinance shall not apply to construction vehicles, equipment and machinery that are operable and not in a junk condition as defined herein.

(Ord. No. 2-68, § 4, 5-27-1968; Ord. No. 03-11, 6-21-2011)

**Sec. 7-34. Penalties for violations.**

1. Fifteen (15) days after receiving a notice of violation as contained in § 7-32 any person, corporation or entity that fails to abate or remedy the violation or otherwise conform to the orders of the enforcement official shall be subject to a fine as set forth in the town fee schedule.
2. All fines paid pursuant to this section shall be payable to the treasurer of the town.
3. In addition to said fines, the town may pursue other remedies such as injunctive relief, abatement of the nuisance or other remedies permitted under state and municipal law.

(Ord. No. 03-11, 6-21-2011)

**Sec. 7-35. Administration and enforcement.**

The chief zoning official or his designee is charged with the administration and enforcement of this ordinance and may issue such orders, including waiver of requirements to conform in exceptional cases and extensions of time to conform, as he deems necessary and appropriate under the circumstances.

(Ord. No. 2-68, § 6, 5-27-1968; Ord. No. 03-11, 6-21-2011)

**Sec. 7-36. Appeals procedure.**

Any person, corporation or entity aggrieved by an order or fine of the chief zoning official pursuant to this chapter may appeal such order or fine to the town manager or the town manager’s designee within fifteen (15) days of issuance of such order of fine. An appeal may be filed in person or in writing within said time period. The town manager or his designee shall deliver his decision by hand, or by certified or registered mail to the appellant, which decision may be appealed to the Superior Court within fifteen (15) days of receipt of the town manager’s written decision.

(Ord. No. 03-11, 6-21-2011)

**Secs. 7-37—7-39. Reserved**

**Article 4. - Noise**

**Part A. -Generally**

**Secs. 7-40—7-49. Reserved**

**Part B. -Construction Activity**

**Sec. 7-50. Intent.**

This part is intended to protect, preserve and promote the public health, safety and welfare of the residents of the town through the regulation of noise generated by construction activity as defined herein.

(Ord. No. 02-02, § 1, 3-12-2002)

**Sec. 7-51. Construction activity defined.**

Construction activity shall mean any and all physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing or equipping of buildings or other structures, roads, driveways, premises, parks, utility lines or other property, and shall include excavating, filling and paving, provided any such activity is being performed by a person or entity for profit.

(Ord. No. 02-02, § 2, 3-12-2002)

**Sec. 7-52. Construction activity regulated.**

Construction activity accompanied by noise that may tend to disturb the peace and quiet of the residents is hereby prohibited in the town before 7:00 a.m. and after 8:00 p.m., Monday through Saturday, and before noon and after 6:00 p.m. on Sunday and any legal holiday as per state statute § 1-4.

(Ord. No. 02-02, § 3, 3-12-2002)

**Sec. 7-53. Exemptions.**

The following activities shall be exempt from the provisions of this part:

1. Snow removal;
2. Refuse and solid waste collection;
3. Farming activity.

(Ord. No. 02-02, § 4, 3-12-2002)

**Sec. 7-54. Enforcement.**

The chief of police or any member of the police department is charged with enforcing the provisions of this part. No police officer shall issue a summons to enforce this part except upon complaint.

(Ord. No. 02-02, § 5, 3-12-2002)

**Sec. 7-55. Emergency.**

Any person or entity may apply to the chief of police or, in his absence, the highest-ranking police officer on duty, for permission to perform such prohibited acts in the event of an emergency. The chief of police or such highest-ranking police officer shall have the power and authority to determine whether an emergency exists and to grant such permission.

(Ord. No. 02-02, § 6, 3-12-2002)

**Sec. 7-56. Violations and penalties.**

1. Any person, corporation or entity violating this part shall be subject to fines as provided in the town fee schedule.
2. All fines paid pursuant to this part shall be payable to the treasurer of the town.

(Ord. No. 02-02, § 7, 3-12-2002)

**Sec. 7-57. Appeals Procedure.**

Any person, corporation or entity fined pursuant to this part may appeal such fine to the town manager or his designee within thirty (30) days of the issuance of such fine, and then, if necessary, to the superior court.

(Ord. No. 02-02, § 8, 3-12-2002)

**Part C. Noise**

**Sec. 7-60. Declaration of purpose.**

Excessive noise poses a danger to the health, safety, and welfare of persons within the Town of Berlin and a detriment to their quality of life. Therefore, this Chapter is enacted to promote an environment free from noise that jeopardizes

the health, safety, welfare, and quality of life of persons within the Town of Berlin through the control, reduction, and prevention of excessive sound and vibration.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-61. Definitions.**

When used in this Chapter, the terms below shall have the following meanings:

BACKGROUND NOISE – Noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time (L90) in which the measurement is taken.

CONSTRUCTION –Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition for or of public or private rights-of-way, structures, utilities, or similar property.

DAY – From 7:00 a.m. to 9:00 p.m., local time.

DECIBEL – A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

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

EMERGENCY – Any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

EMITTER – The person who creates, causes to be created, or allows the noise.

EXCESSIVE NOISE – Any sound, the intensity of which exceeds the standards set forth in § 7-63 of this Chapter.

IMPULSE NOISE – A sound of short duration, usually less than one (1) second, and a high intensity, with an abrupt onset and rapid delay. Examples include an explosion, a discharge of a firearm, or a screech.

##### INFRASONIC SOUND – Sound-pressure variations having frequencies below the audible range for humans.

MOTOR VEHICLE – Defined as per § 14-1(59) of the Connecticut General Statutes.

NIGHT – From 9:00 p.m. until 12:00 midnight, and from 12:00 midnight until 7:00 a.m.

NOISE SOURCE – Any individual, equipment, machine or other item or thing that creates a sound.

PEAK SOUND-PRESSURE LEVEL – The absolute maximum value of the instantaneous sound-pressure level occurring in a specified period of time.

PERSON – Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

RECEPTOR – The person who receives the noise impact.

SOUND – A transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

SOUND LEVEL – The A-weighted sound pressure level, expressed in decibels (dBA), measured on a sound level meter property calibrated and operating on the A-weighting network.

SOUND LEVEL METER – An instrument which includes a microphone, amplifier, RMS detector, integrator or averager, output meter and weighting networks used to take sound level measurements, which should conform, at a minimum, to the requirements set forth in the American National Standards Institute’s American National Standard for Sound Level Meters [ANSI S.1.5 – 1971 (Type S2A) Sound Level Meter].

ULTRASONIC SOUND – Sound-pressure variations having frequencies above the audible sound spectrum for humans.

VARIANCE – A difference between the standards which are required by this ordinance and that which is permitted to exist.

VIBRATION – An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-62. Noise zones.**

Noise zone means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as related to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way, and waters of the State.

Noise zones within the Town of Berlin shall be classified as to zoning applicable for the parcel or tract of land and the surrounding parcels or tracts. Noise zones specified herein shall correspond to the following zoning descriptions in the Zoning Regulations and Zoning Map of the Town of Berlin.

|  |  |  |
| --- | --- | --- |
| **Zone** | **Actual or Intended Use** | **Current Zoning\*** |
| A | Residential | R-86,R-43,R-21,R-15,R-11, R-7, PR-1, PR-2, PR-3, POR, OP, MR-1, MR-2, and WHD |
| B | Commercial | PS-A,PS-B,SP-DD,GC, BT-1, BT-2, CCD-1, CCD-2, SP-DD 2, SP-DD Overlay, and BTD |
| C | Industrial | OT,OT-2,GI,GI-2, PI, PI-2, POD |

\*Based on the Zoning Regulations and Zoning Map of the Town of Berlin.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-63. Sound levels.**

A. It shall be unlawful for any person to emit or cause to be emitted any sound beyond the boundaries of his/her/its premises so as to violate any provisions of this Chapter.

Sound level standards. No person shall emit or cause to be emitted sound beyond the boundaries of his/her/its premises exceeding the levels stated in the table below and applicable to adjacent residential (Zone A), commercial (Zone B), or industrial (Zone C) zones when

measured on a receptor’s premises:

## Receptor’s Noise Zone

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Emitter’s Noise Zone** | Zone C **Receptor** | Zone BReceptor | Zone A/Day **Receptor** | Zone A/NightReceptor |
| Zone A Emitter | 62 dBA | 55 dBA | 55 dBA | 45 dBA |
| Zone B Emitter | 62 dBA | 62 dBA | 55 dBA | 45 dBA |
| Zone C Emitter | 70 dBA | 66 dBA | 61 dBA | 51 dBA |

C. High background noise levels. In those individual cases where the background noise levels caused by sources not subject to this Chapter exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this Chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this section does not decrease the permissible noise level standards of Subsection B of this section.

1. Impulse noise.
   1. No person shall cause or allow the emission of impulse noise in

excess of eighty (80) decibels peak sound-pressure level during the nighttime to any residential noise zone.

2. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound-pressure level at any time in any noise zone.

1. Infrasonic and ultrasonic sound.

No person shall emit beyond his/her/its property infrasonic or ultrasonic sound in excess of one hundred (100) decibels at any time.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-64. Motor vehicle noise.**

1. All motor vehicles operating within the limits of the Town of Berlin shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, campers, and dune buggies.

B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes.

1. No person shall operate, or cause to be operated, any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-65. Exhaust discharge.**

No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment unless such discharge is through a muffler or through an apparatus providing equal noise reduction.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-66. Certain sounds excluded.**

This Chapter shall not apply to:

A. Sound generated by natural phenomena, including but not limited to wind, storms, insects, birds, amphibious creatures, and water flowing in its natural course.

B. The unamplified sound of human voices.

C. The unamplified sound made by any wild or domestic animal.

D. Sound created by bells, carillons or chimes associated with specific religious observances.

E. Sound created by a public emergency sound signal attached to any

authorized emergency vehicle in the immediate act of responding to an emergency or located within or attached to a building, pole, or other structure for the purpose of sounding an alarm relating to fire or civil preparedness.

F. Sound created by safety and protective devices, provided that such device is sounded as a warning of imminent danger or from the release of pressure buildup.

G. Sound created by intrusion alarms, provided that the emission of noise from such devices, from the time of activation of audible signal, does not exceed ten (10) minutes when attached to any vehicle or thirty (30) minutes when attached to any building or structure. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

H. Backup alarms required by Occupational Safety and Health

Administration (OSHA) or other municipal, state, or federal safety regulations.

1. Farming equipment or farming activity.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-67. Exemptions.**

The following noise shall be exempted from the provisions of this Chapter.

A. Noise created by signal testing, principally siren-tested by city fire departments and civil preparedness units.

B. Noises created by snow removal equipment at any time, provided that noise discharged from exhausts is adequately muffled to prevent loud noises therefrom.

C. Noise created by blasting, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. or at such other specified hours provided for in the permits necessary to conduct such activity. Per Connecticut law, blasting is prohibited on Sundays.

1. Noise generated by the operation of any tools or equipment used in

construction, drilling, or demolition work between the hours of 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays and between the hours of 8:00 a.m. and 6:00 p.m. on Sundays and Holidays provided that the noise generated therefromdoes not exceed the limits set forth in §§ 7-62 and 7-63. This section does not apply to the use of domestic power tools subject to §E. below.

E. Noise generated by the operation of any mechanically powered or gasoline powered saw, drill, sander, grinder, lawn, landscaping, or garden tool, leaf blower, or other domestic power tool or equipment between the hours of 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays and between the hours of 8:00 a.m. and 6:00 p.m. on Sundays and Holidays provided that the noise generated therefrom does not exceed the limits set forth in §§ 7-62 and 7-63. This section does not apply to the use of snow-removal equipment [see § B herein].

F. Noise created by on-site recreational or sporting activity that is sanctioned by town government, provided that the noise created by the activity is adequately muffled to prevent loud noises therefrom.

G. Patriotic or public celebrations not extending longer than one calendar day, such as parades, carnivals, and firework displays, are exempted, provided that any necessary permits have been obtained.

H. Noise created by aircraft or components designed for or utilized in the development of aircraft.

1. Noise from the activities conducted at the Mattabassett Gun Club in accordance with the Club’s Rules and Regulations.

J. Noise from lawfully operated backup power generators.

K. Noise from lawfully authorized construction performed by the State of Connecticut or Town of Berlin (including their respective contractors and/or subcontractors) during the otherwise off hours of 8:00p.m.- 7:00a.m.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-68. Instruments and measurements.**

A. Instruments used to determine sound level measurements shall conform to sound level meters as defined by this Chapter.

1. All personnel conducting sound measurements shall be trained and experienced in the current techniques and principles of sound measuring equipment and instrumentation.

###### C. The general steps listed below shall be followed when preparing to take sound level measurements:

1. The instrument manufacturer’s specific instructions for the preparation and use of the instrument shall be followed.

2. Measurements shall be taken at a point that is located about one (1) foot beyond the property line of the emitter’s premises within the receptor’s premises. The emitter’s premises include his/her/its individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

3. While measurements are being recorded, a continual visual and aural surveillance of extraneous sound sources shall be made to ensure that the measurements are due to the sound being investigated. The sound levels of extraneous sound sources shall be recorded.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-69. Administration and enforcement.**

A. The Town Manager shall appoint a Town employee to enforce the provisions of this Ordinance and carrying out the purpose of this Chapter as specified in § 7-60. The Chief of Police, or his designated representative, shall have the authority to investigate complaints of noise pollution in coordination with the Town employee appointed by the Town Manager and the Chief, his designee or the Town employee appointed by the Town Manager shall have authority to issue citations for violations of this Chapter.

1. Inspections.

1. For the purposes of determining compliance with the provisions of this Chapter, the Chief of Police or his designated representative and/or the Town employee appointed by the Town Manager is hereby authorized to make inspections of all noise sources and to take measurements and make tests,whenever necessary, to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing, or noise measurement of any activity, device, facility, or process where inspection is sought, the Town may seek from the appropriate court a warrant, without interference, restriction, or obstruction, at a reasonable time, for the purpose of inspecting, testing, or measuring noise.

* + - 1. It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative, or the Town employee appointed by the Town Manager, free access to any premise, when the Chief of Police or his designated representative or the appointed Town employee is acting in compliance with a warrant for inspection and order issued by the appropriate court.

3. No person shall hinder, obstruct, delay, resist, prevent in any

way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this Chapter.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-70.** **Violations and penalties.**

A. No person shall violate or cause the violation of the provisions of this Chapter.

B. Any person in violation of the provisions of this Chapter shall be fined one hundred dollars ($100.00) for the initial violation.

1. Each day on which a violation occurs or continues shall be considered

a separate violation of this chapter. For the second violation and each

additional violation thereafter, the fine imposed shall be two hundred

dollars ($200.00).

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-71. Variances.**

1. Any person living or doing business in the Town of Berlin may apply to the Town Council for a variance or partial variance from one or more of the provisions of this Chapter, which are more stringent than the Connecticut Department of Energy and Environmental Protection’s regulations for the control of noise, provided that the applicant supplies the following information to the Town Council at least thirty (30) days prior to the start of such activity:

* 1. The location and nature of the activity;

2. The time period and hours of operation of the activity;

3. The nature and intensity of the noise that will be generated;

4. The reason for which the variance is required; and

5. Any other information required by the Board of Selectmen.

B. No variance from this Chapter shall issue unless it has been demonstrated that:

1. The proposed activity will not violate any provisions of the Connecticut Department of Energy and Environmental Protection’s regulations;

2. The noise levels generated by the proposed activity will not constitute a danger to the public health; and

3. Compliance with this Chapter constitutes an arbitrary or unreasonable hardship upon the applicant without equal or greater benefits to the public.

C. The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of the activity. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.

D. Failure of the Town Council to rule on an application in the designated time shall constitute approval of the variance.

E. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of this section. Any such application shall include a certification of compliance with any condition(s) imposed under the previous variance.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-72. Coordination with other laws.**

1. Nothing in this Chapter shall authorize the construction or operation of a stationary noise source in violation of the requirements of any other

applicable state law or regulation.

B. Nothing in this Chapter shall authorize the sale, use, or operation of a noise source in violation of the laws and regulations of the Connecticut Department of Energy and Environmental Protection, Connecticut Department of Motor Vehicles, the Federal Aviation Administration, the U.S. Environmental Protection Agency, or any amendments thereto.

(Ord. No. 03-24, 07-09-2024)

**Sec.7-73. Compliance with Chapter no defense to nuisance claim.**

Nothing in any portion of this Chapter shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with this Chapter is not a bar to a claim of nuisance by any person. A violation of any portion of this Chapter shall not be deemed to create a nuisance per se.

(Ord. No. 03-24, 07-09-2024)

**Sec. 7-74. Severability.**

If any provision of this Chapter or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this Chapter which can be given effect without the invalid provisions or application; and to this end, the provisions of this Chapter and the various applications thereof are declared to be severable.

(Ord. No. 03-24, 07-09-2024)

1. **Cross reference—**Solid waste, chapter XV of this code book.

   **State law reference—**Litter control, state statutes §§ 22a-250, 22a-251. [↑](#footnote-ref-1)
2. **Cross reference—**Traffic and vehicles, chapter XVII of this code book. [↑](#footnote-ref-2)