

ARTICLE XI
Environmental Performance Standards

§ 135-1101. Establishment of standards.

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactivity or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects or rodents; or any other substance, condition or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

- A. Emissions shall be completely and effectively confined within the building or so regulated as to prevent any nuisance, hazard or other disturbance from being perceptible, without the use of instruments, at any lot line of the premises on which the use is located.
- B. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment, as approved by the Chief of Fire Department.
- C. No activities that emit dangerous radioactivity at any point, no electrical disturbance adversely affecting the operation at any point of any equipment, other than that of the creator of such disturbance, shall be permitted.
- D. No air emission shall be permitted except in accordance with the regulations for the control of air pollution in the Metropolitan Boston Air Pollution District under MGL c. 111, § 142D.
- E. No emission which can cause any damage to the health of animals or vegetation or which can cause excessive soiling at any point, and in no event any emission of any solid or liquid particles in a concentration exceeding 0.5 milligram per liter or parts per million of conveying gas or air shall be permitted.
- F. No discharge, at any point, into a private sewer system, stream, the ground or a municipal sewage disposal system of any material in such a way or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
- G. No emissions of odorous gases or odiferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington D.C., shall be permitted. No direct sky-reflected glare, whether from floodlights or from high-temperature processes such as welding, shall be permitted.

§ 135-1102. Noise and vibration control.

Purpose. Pursuant to the authority conferred upon the Town by MGL c. 40, § 21, the following is adopted for the regulation and restriction of unnecessary, excessive and annoying noise and vibration in the Town of Braintree. It is declared to be the policy of the Town of Braintree to prohibit such noise and vibration from or by all sources as set forth in this bylaw. Because it has been determined that certain noise levels and vibrations are detrimental to the public health, welfare, safety and convenience as well as contrary to the public interest, these standards have been set forth by the Town of Braintree to declare that creating, maintaining, causing or allowing to be created any noise or vibration in a manner prohibited by or not in conformance with these standards is a public nuisance punishable as set forth in this bylaw.

§ 135-1103. Definitions.

The terms used in this bylaw shall be defined as follows:

AMBIENT NOISE LEVEL — The all-encompassing noise level associated with a given environment, excluding any alleged condition of noise pollution.

A-WEIGHTED SOUND LEVEL — The sound pressure measured on a sound-level meter using the A-weighting network. The level read is designated DB(A) or DBA.

BUSINESS — A business area is any area included within a district zoned for business under the Braintree Zoning Bylaws. It does not include any area within a district zoned for residential purposes under the Zoning Bylaws, as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal or through a nonconforming use or by any other means.

COMMERCIAL — A commercial area is any area included within a district zoned for commercial, under the Zoning Bylaws. It does not include any area within a district zoned for residential purposes under the Zoning Bylaw, as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal or through a nonconforming use or by any other means.

CONSTRUCTION — Any site preparation, assembly, erection, substantial repair, alteration, or similar action (demolition excluded) for or of public or private right-of-way, structures, utilities or similar property.

DAYTIME — The time between the hours of 7:00 a.m. and 6:00 p.m. each weekday excepting Sunday in accordance with the time system locally in effect.

DECIBEL (DB) — The unit by which the sound level is measured.

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

EMERGENCY WORK — Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

HEAVY MOTOR VEHICLES — All motor vehicles having a gross vehicle weight in excess of 10,000 pounds.

L 10 — The A-weighted sound level exceeded 10% of the time.

LIGHT MOTOR VEHICLES — All motor vehicles having a gross vehicle weight of 10,000 pounds or less.

MOTORCYCLE — As defined in MGL c. 90, § 1, Definitions.

MOTOR VEHICLES — As defined in MGL c. 90, § 1, Definitions.

MUFFLER or SOUND-DISSIPATIVE DEVICE — A device for abating the sound of escaping gases of an internal combustion engine.

NOISE POLLUTION — Any sound at or above the level set forth in Article XI of this bylaw which exceeds the ambient noise level designated for the receiving land use category when measured at or within the property boundary of the receiving land use, plus any sound which:

- (1) Endangers the safety of or could cause injury to the health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

PERSON — Any individual, association, partnership, or corporation including any officer, employee, department, agency or instrumentality of the state recognized by law as the subject of rights and duties.

RESIDENTIAL AREA — A residential area is for residential purposes under the Zoning Bylaw. It includes Districts A, B and C as defined in the Braintree Zoning Bylaw.

SOUND LEVEL — The weighted sound-pressure level obtained by the use of a sound-level meter and frequency weighting network XI-3 such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters (ANSI).

SOUND-PRESSURE LEVEL — Twenty times the logarithm to the base 10 of the pressure of the sound to a reference pressure of 20 micro-pascals, in accordance with standard engineering and scientific practices.

VIBRATION — Any movement of earth, ground or other similar surface created by a temporal and spatial oscillation of displacement, velocity or acceleration in any mechanical device or equipment located upon, attached, affixed or in conjunction with that surface.
[Amended 5-12-1987 ATM by Art. 55]

ZONING DISTRICTS — The zoning districts and land uses established by the Zoning Bylaw of the Town of Braintree.

§ 135-1104. Prohibited acts.

- A. General prohibition of noise emissions. No person owning, leasing or controlling the operation of any source of noise shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution.

B. Specific prohibitions. Except for emergency work or work covered under a permit granted by the Board of Selectmen or its designee under this Article XI, causing or allowing the occurrence of the following acts is declared to be in violation of the provisions of this bylaw:

- (1) Operating, playing or permitting the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in a manner that disturbs the peace, quiet and comfort of the neighboring inhabitants or at a volume louder than is necessary for the convenient hearing of the person in the room, vehicle, or building in which the device is operated. The operation of any such device between the hours of 10:00 p.m. and 7:00 a.m. on the weeknights and between 12:00 p.m. and 7:00 a.m. on weekend nights in a manner that makes it clearly audible at a distance of 50 feet or approximately 15 meters from the building, structure or vehicle in which it is located is a violation of the standards set forth in this bylaw. Activities open to the public for which a proper permit has been issued are exempted from this provision.
- (2) Yelling, shouting, hooting, whistling or singing on the public ways between the hours of 10 p.m. and 7:00 a.m. or at any time or place that annoys or disturbs the quiet, comfort or repose of a person in an office, dwelling or other type of residence or of a person in the vicinity.
- (3) The keeping of an animal or bird which frequently and for continued periods of time causes a condition of noise pollution that disturbs the comfort and repose of a reasonable person in the vicinity at any time but most specifically between the hours of 10 p.m. and 7:00 a.m.
- (4) The offering for sale or selling of anything by shouting or outcry within a residential or commercial area of the Town of Braintree.
- (5) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects in a manner that causes a condition of noise pollution at any time but most specifically between the hours of 8:00 p.m. and 7:00 a.m. across a real property boundary in any district established under the Zoning Bylaw.
- (6) Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of 8:00 p.m. and 7:00 a.m. on weekdays or at any time on Sundays or holidays so that the sound creates a condition of noise pollution across a real property boundary.
- (7) The operation of construction devices between the hours of 7:00 a.m. and 8:00 p.m., including such items as compressors, jackhammers, bulldozers, cranes, etc., in a manner that causes a condition of noise pollution that could be avoided by the application of best available technology, which might include mufflers where commercially available.
- (8) The direct discharge into the open air of the exhaust of a steam engine, internal combustion engine such as chain saws, jackhammers, etc., motor boat, or motor vehicle except through a muffler or other such device, where commercially available, designed to effectively prevent them from creating loud or explosive noises.

- (9) Operating or permitting the operation of any device that creates or causes any ground vibration which is perceptible without instruments at any point outside the property, street or sidewalk on which the vibration source is located.

§ 135-1105. Sound levels by receiving land use.

- A. Except as provided in § 135-1106, no person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds the ambient noise level set forth for the receiving land use category in the following table when measured at or within the property boundary of the receiving land use.

Receiving Land Use Category	Item	Sound Level Limit (DBA)
Residential A, B and C	Daytime	60
Open space	All other times	50
Business	At all times	65
Commercial	At all times	70

- B. No person shall sell or rent, or cause to be sold or rented, any structures or property to be used for human habitation where the structure or property is exposed to sound levels which are for 50% of the time in excess of the standards set forth in this bylaw without written disclosure of said condition. The Board of Selectmen shall develop a standard format for these written disclosures.

§ 135-1106. Restrictions on noise emitted from construction sites.

- A. Except as provided in § 135-1104B, it shall be unlawful of any person to operate any construction device on any construction site if the operation of that device emits noise measured at the lot line of the affected property in excess of the following values:

Use of Affected Property	L 10 Level	Maximum Noise Level
Residential A, B and C	75 DBA	86 DBA
Business	80 DBA	—
Commercial	85 DBA	—
Public way	85 DBA	—

- B. The L 10 level shall be determined by making 100 observations on the A-weighted network with the sound-level meter at slow response at ten-second intervals. During any of these observations if a measurement is substantially affected by a source outside of the construction site, these measurements will not be considered. Observations will be continued until 100 valid observations have been recorded. The L 10 level will be equivalent to the 10th highest level recorded.

If the person taking measurements estimates that outside noise sources contribute greatly to the noise of the construction site, the aforementioned procedure shall be repeated when construction is inactive in order to correctly determine the L 10 level. The L 10 level during construction must be greater than the background L 10 level by at least five DBA to be considered in violation of the provisions of this regulation.

§ 135-1107. Motor vehicles and motorcycles on public rights-of-way.

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 that the sound level emitted by the motor vehicle or motorcycle exceeds the following limits. Motor vehicle and motorcycle sound limits to be measured would be at a distance of 50 feet or approximately 15 meters from the center line of travel.

Vehicle Class	Sound level in DBA	
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph
Vehicles in excess of 10,000 pounds engaged in interstate commerce as permitted by 40 CFR 303, Environmental Protection Agency (Noise emission standards for motor vehicles engaged in interstate commerce)	86	90
All other vehicles of 10,000 pounds or more	86	90
Any other motor vehicle or combination of vehicles towed by any motor vehicle	78	82
Motorcycles	82	86

§ 135-1108. Enforcement.

The Braintree Police Department and/or the Inspector of Buildings shall be charged with the enforcement of this bylaw.

§ 135-1109. Permits and exemptions.

- A. Provisions in this bylaw shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.
- B. The Board of Selectmen or its designee may give a permit for any activity otherwise forbidden by the provisions of this bylaw. A person seeking such a permit should make

written application to the Board of Selectmen or its designee on the appropriate form which is available at the office of the Selectmen.

- C. The Board of Selectmen or its designee shall issue guidelines defining the procedures to be followed in applying for a permit and the criteria to be considered in the decision of whether to grant one.
- D. The Board of Selectmen or its designee shall issue guidelines defining procedures to be followed in applying for an extension of time to comply with the provisions of these regulations and the criteria to be considered in the decision of whether to grant it. The guideline should include reasonable time frames for compliance.
- E. Application for a permit for construction or repair work to be performed on a Sunday shall be made to the Inspector of Buildings.
- F. In some instances, when it can be demonstrated that bringing a source of noise into compliance with the provisions of this bylaw would create undue hardship on a person or the community, a permit may be granted for continuing the noise pollution. A person seeking a permit must make written application to the Board of Selectmen or its designee within five days of receiving notification that s(he) is in violation of the provisions of this bylaw. The application shall contain the necessary information to support the applicant's claim. If the Board of Selectmen or its designee finds that sufficient controversy exists regarding the application, a public hearing shall be held by the Board of Selectmen or its designee. A person who claims that allowance of such continuance would have adverse effects may file a statement with the Board of Selectmen or its designee to support this claim.
- G. If the Board of Selectmen or its designee orders abatement of a source of noise pollution, a person who feels (s)he cannot meet the stated time schedule for compliance may file an application for an extension of time. A written application must be filed within five days of receipt of notification of violation and shall contain information that supports the request for additional time to comply and shall propose a new compliance schedule. If the Board of Selectmen or its designee finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that the allowance of an extension of time would have adverse effects may file a statement with the Board of Selectmen or its designee to support this claim.

§ 135-1110. Hearings.

- A. The Board of Selectmen or its designee shall hold a public hearing if sufficient controversy exists regarding the issuance of a permit under this bylaw and may hold a public hearing if an extension of time to comply under the provision of this bylaw is requested.
- B. Resolution of the controversy will be based upon the information supplied by both sides in support of their individual claims and will be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen.

§ 135-1111. Appeals.

Appeals of an adverse decision shall be made to the Superior Court. The Court's review shall be limited to whether the decision was supported by substantial evidence.

§ 135-1112. Penalties.

- A. Any person who violates any provisions of this bylaw, if convicted, shall be fined an amount not to exceed \$50 a day.
- B. Each day that the offense continues shall be considered to be a separate violation.

§ 135-1113. Conflict with other regulations.

The provisions contained within this bylaw shall not relieve any person from complying with other laws, statutes, codes, regulations or bylaws of the Commonwealth of Massachusetts or the Town of Braintree.

§ 135-1114. Severability.

If any of the provisions of this bylaw are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions will remain in force.