

ORDINANCE 2005-39
NEW RICHMOND NOISE ORDINANCE

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515.01 SHORT TITLE

This chapter may be cited as the "Noise Control Ordinance of the Village of New Richmond".

515.02 DEFINITIONS

The following words and terms shall, throughout this chapter, have the meaning given as hereinafter set forth and defined. All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.
- (b) "Construction" means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or on public or private rights of way, structures, utilities or similar property.
- (c) "Decibel (db)" means a unit for measuring the volume of a sound, equal to twenty times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
- (d) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

- (e) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.
- (f) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (g) "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.
- (h) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- (i) "Industrial area" means those areas specified in Article 18 of the Zoning Code of the Codified Ordinances.
- (j) "Motor vehicle" means every vehicle specified in Section 301.20 of the Traffic Code of the Codified Ordinances.
- (k) "Motorcycle" means every motor vehicle specified in Section 301.19 of the Traffic Code of the Codified Ordinances.
- (l) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.
- (m) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (n) "Noise disturbance" means any sound which:
 - (1) Endangers or injures the safety or 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.
- (o) "Person" means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.
- (p) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(q) "Powered model vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designated to carry persons, including but not limited to, any model airplane, boat, car or rocket.

(r) "Public right of way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(s) "Public space" means any real property or structures thereon which are owned or controlled by a governmental entity.

(t) "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(u) "Residential area" means those areas specified in Article 8 thru 14 of the Zoning Code of the Codified Ordinances.

(v) "Retail area" means those areas specified in Article 15 thru 17 of the Zoning Code of the Codified Ordinances.

(w) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted P_{rms} .

(x) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

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

(z) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

(aa) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(bb) "Sound pressure level" means twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

(cc) "Weekday" means any day Monday through Saturday.

(dd) "Vibration" means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

515.03 NOISE DISTURBANCES PROHIBITED.

(a) No person shall unreasonably make, continue, or cause to be made or continued, or permit, any noise disturbance.

(b) Noncommercial public speaking and public assembly activities conducted on any public space or public right of way shall be exempt from the operation of this section.

515.04 SPECIFIC PROHIBITIONS.

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

(a) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary.

(b) Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than 95 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT".

(c) Explosives, Firearms and Similar Devices. The using or firing of explosives, firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way, without first obtaining a special variance.

(d) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary.

(e) Adequate Mufflers or Sound Dissipative Devices.

(1) Operating or causing to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

(2) Removing or rendering inoperative, or causing to be removed or rendered inoperative,

other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

(3) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat, except through a muffler or other device in good working order and in constant operation.

(f) Motor Vehicles.

(1) Operating or permitting the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, between the hours of 9:00 p.m. and 8:00 a.m. the following day.

(2) Racing the motor of any vehicle unnecessarily or operating any motor vehicle, except in an emergency in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the pavement or other surface, commonly called "peeling".

(g) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 8:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary.

(h) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:

(1) Between the hours of 9:00 p.m. and 8:00 a.m. the following day on weekdays or at any time on Sundays, such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities or by special variance.

(2) This subsection (h) shall not apply to the use of domestic power tools subject to subsection (l) hereof.

(i) Emergency Signaling Devices.

(1) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsections (i)(2) and (3) hereof.

- (2) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 8:00 a.m. or after 9:00 p.m. or the closing time of a commercial establishment, whichever shall occur later. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds.
 - (3) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before 8:00 a.m. or after 9:00 p.m. In no case shall such test time exceed ten minutes.
 - (4) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within two minutes of activation, or within a reasonable time after notification of activation.
 - (5) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger.
- (j) Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:
- (1) Between the hours of 9:00 p.m. and 8:00 a.m. the following day in such a manner as to create a noise disturbance across a residential real property boundary; or
 - (2) In such a manner as to create a noise disturbance at fifty feet (fifteen meters) from such device, when operated in or on a motor vehicle on a public right of way or public space.
- (k) Loudspeakers and Public Address Systems. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right of way or public space for any purpose whatever.
- (l) Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device used outdoors, other than powered snow removal equipment, in residential areas between the hours of 9:00 p.m. and 8:00 a.m. the following day on weekdays and before 10:00 a.m. or after 6:00 p.m. on Sundays so as to cause a noise disturbance across a residential real property boundary.
- (m) Powered Model Vehicles.
- (1) Operating or permitting the operation of powered model vehicles so as to create a

noise disturbance across a residential real property boundary or in a public space between the hours of 9:00 p.m. and 8:00 a.m. the following day.

(2) During the permitted period of operation, maximum sound levels in a public space shall not exceed seventy-five dBA measured at a distance of fifty feet from any point on the path of the vehicle.

(3) During the permitted period of operation, maximum sound levels in a residential area shall not exceed sixty dBA measured at a distance of fifty feet from any point on the path of the vehicle.

- (n) Vibration. Operating or permitting the operation of any device that creates a vibration, which is above the vibration perception threshold of an individual at or beyond the property boundary of the source. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

515.05 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE.

No person shall operate, cause to be operated, or permit on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use.

TABLE 1. SOUND LEVELS BY RECEIVING LAND USE

Receiving land-use category	Time	Sound level limit dBA
Districts R1, R2, R3, R4, R5, R-5M & R5C	8:00 a.m. - 9:00 p.m.	60
	9:00 p.m. - 8:00 a.m.	50
Districts B1 and B2 (Commercial or business)	At all times	65
District I-1 (Industrial)	At all times	70

515.06 EXEMPTIONS.

(a) The provisions of Sections 515.04 and 515.05 shall not apply to organized school-related programs, activities or events, or to municipal-authorized parades, or to municipal-sanctioned concerts in public parks.

(n) The provisions of Section 515.05 shall not apply to:

- (1) Activities covered by subsections (c), (h), (i) and (l) of Section 515.04;
- (2) Refuse collection vehicles; and
- (3) Railway locomotives and cars.

515.07 MOTOR VEHICLES AND MOTORCYCLES ON PUBLIC RIGHTS OF WAY.

No person shall operate, cause to be operated or permit 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 level set forth in Table 2.

TABLE 2. MOTOR VEHICLE AND MOTORCYCLE SOUND LIMIT

Vehicle Class	Sound level in dBA		Stationary Engine Speed	Stationary Run-up	
	Speed limit 35 MPH or Less (measured at 50 ft.)	Speed limit over 35 MPH (measured at 50 ft.)		Microphone Distance from Vehicle	Noise Limit dBA
Motor carried vehicle of GVWR or GCWR of 10,000 lbs. or more	86	90	For vehicles with governors, test at maximum governor speed. For vehicles without governors, test at 75% of motor speed at maximum developed horsepower.	50 feet from center line of vehicle.	88
Any motorcycle	80	85	Test at 75% of motor speed of maximum developed horsepower.	20 inches from rear side of vehicle.	101
Any other motor vehicle or any combination of vehicles towed by any motor vehicle.	75	80	Test at 3,000 RPM	20 inches from end of tailpipe	90

515.08 IMMEDIATE THREATS TO HEALTH AND WELFARE.

No person shall operate, cause to be operated or permit on public or private property any source of continuous and/or impulsive sound in such a manner as to create a sound level which exceeds the limits set forth in Tables 3 or 4 when measured at a distance of fifty feet or fifteen meters from such source.

TABLE 3. CONTINUOUS SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT 50 FEET OR 15 METERS)*

Sound level limit (dBA)	Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

*Use equal energy time-intensity trade-off if level varies; find energy equivalent over 24 hours.

TABLE 4. IMPULSIVE SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT 50 FEET OR 15 METERS)

Sound level limit (dB)	Number of repetitions per 24 hour period
145	1
135	10
125	100

515.09 INSPECTIONS BY BUILDING INSPECTOR OR LAW ENFORCEMENT OFFICERS.

The Building Inspector and/or law enforcement officers shall, in addition to any other authority vested in them, have the power, upon presentation of proper credentials, to enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

515.10 STOPPING AND TESTING OF MOTOR VEHICLES BY LAW ENFORCEMENT OFFICERS.

The law enforcement officer shall, in addition to any other authority vested in him, have the power to stop and test any motor vehicle or motorcycle operated on a public right of way or public space, reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order.

515.11 EMERGENCY EXCEPTION.

The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

515.12 SPECIAL VARIANCES.

(a) The Building Inspector shall have the authority, consistent with this section, to grant special variances.

(b) Any person seeking a special variance pursuant to this section shall file an application with the Building Inspector. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a special variance shall be given by the Inspector to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the Inspector containing any information to support his claim.

(c) In determining whether to grant or deny the application, the Inspector shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the Building Inspector may reasonably require. In granting or denying an application, the Inspector shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

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

(e) Application for extension of time limits specified in special variances or for modifications of other substantial conditions shall be treated like applications for initial special variances.

(f) The Inspector may issue guidelines approved by resolution of Council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

(g) The decision of the Inspector may be appealed by the person denied the special variance or by any person claiming to be adversely affected by allowance of the special variance. Such appeal shall be made to the Zoning Board of Appeals, and review by the Board shall be de novo.

515.13 ABATEMENT ORDERS.

In lieu of issuing a notice of violation as provided for in Section 515.14, the Building Inspector or law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be in violation of this chapter.

515.14 NOTICE OF VIOLATION.

Except where a person is acting in good faith to comply with an abatement order issued

pursuant to Section 515.13 violation of any provision of this chapter shall be cause for a notice of violation to be issued by the Building Inspector or law enforcement officer.

515.15 OTHER REMEDIES.

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.

515.16 ENGINE BRAKING.

No person shall apply an engine brake and/or use an exhaust brake system (a practice commonly known as: Jake Braking”) when operating a motor vehicle upon U.S. 52 within the municipal corporation boundaries of the Village of New Richmond in such a manner that the use of said brakes results in excessive or unreasonable noise likely to cause inconvenience or annoyance to persons of ordinary sensibilities. Said provisions shall be in effect during evening hours 9:00 pm to 6:00 am and shall not apply to emergency vehicles.

515.99 PENALTY.

(a) Except as otherwise provided for, any person who violates any provision of this chapter is guilty of a minor misdemeanor on a first offense; on each subsequent offense committed within six months of a prior offense, such person is guilty of a misdemeanor of the fourth degree.

(b) Any person who willfully or knowingly violates any provision of this chapter or violates Section 515.08 is guilty of a misdemeanor of the fourth degree.

(c) Each day of violation of any provision of this chapter constitutes a separate offense.

ADOPTED: October 11, 2005