



Town of Lexington

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**EXCERPT OF THE TOWN OF LEXINGTON
ANNUAL TOWN MEETING
HELD MONDAY, MARCH 18, 2024, 7:30 P.M.
CARY MEMORIAL BUILDING – BATTIN HALL
WITH ADJOURNED SESSIONS HELD
MARCH 20, 22, 27, and APRIL 1, 3, 8, 10, 24**

ARTICLE 29 AMEND THE GENERAL BYLAW-NOISE CONTROL

Motion A: Mr. Daggett moves that following sections of the Town's Noise Bylaw, Chapter 80 of the Code of the Town of Lexington be amended as follows (where ~~struck through text~~ is to be removed and **bolded** text is to be added). Sections of the Bylaw not provided below will not be amended.

1. Add the following definitions to § 80-3: Definitions:

BLAST HOLE DRILLING A technique whereby a hole is drilled into the surface of a rock, packed with explosive material and detonated. The aim of this technique is to induce cracks in the inner geology of surrounding rock, in order to remove rock and ledge.

LEDGE WORK Ledge removal, rock breaking, percussive breaking, rock pounding, rock crushing, rock drilling or rock cutting.

LEGAL HOLIDAYS All legal holidays recognized by the Commonwealth and those recognized by the Town of Lexington as identified on a list to be approved by the Select Board.

PERCUSSIVE BREAKING or **HAMMERING** The breaking of rock, bedrock or ledge by repeated blows of a heavy bit or a chisel inside a casing pipe controlled by heavy equipment.


ROCK BREAKING The removal of boulders or bedrock from land by drilling, blasting, percussive breaking, crushing, processing or splitting.

2. Amend §§ 80-4, 6, 7, and 8 as follows:

Generation of excessive or unwarranted noise is prohibited, except as provided by §§ 80-5 and 80-8 of this by-law. In addition, the following restrictions shall apply:

A. Construction/private service/maintenance power equipment.

A true copy.

Attest: 
Mary de Alderete, Town Clerk

- (i) **Contractors are permitted to operate tools or equipment used in construction, excluding ledge work, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 5:00 p.m. and on Saturdays between the hours of 9:00 a.m. and 5:00 p.m. Such operation is not permitted on Sundays and legal holidays.**
- (ii) **Residents are permitted to operate tools or equipment used in construction, excluding ledge work on their own property, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 9:00 p.m. and on Saturdays, Sundays and legal holidays only between the hours of 9:00 a.m. and 5:00 p.m.**
- (iii) **Blasting and the use of powered equipment for ledge work and in the breaking of pavement, including but not limited to hydraulic or pneumatic hammers, by contractors and residents is permitted on weekdays only between the hours of 9:00 a.m. and 5:00 p.m. and is not permitted on Saturdays, Sundays, and legal holidays. In addition, contractors and residents shall be required to comply with all applicable noise mitigation measures and requirements as provided by §80-8 of this by-law.**
- ~~(i) Contractors are permitted to operate tools or equipment used in construction, including drilling or demolition work, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 5:00 p.m. and on Saturdays between the hours of 9:00 a.m. and 5:00 p.m. Such operation is not permitted on Sundays and legal holidays.~~
- ~~(ii) Residents are permitted to operate tools or equipment used in construction, including drilling or demolition work on their own property, in a manner such that this operation creates noise across a real property boundary that would disturb a reasonably prudent person only on weekdays between the hours of 7:00 a.m. and 9:00 p.m. and on Saturdays, Sundays and legal holidays only between the hours of 9:00 a.m. and 5:00 p.m.~~
- ~~(iii) In addition to the above restrictions, blasting and the use of powered equipment used in breaking of rock and pavement, including but not limited to hydraulic or pneumatic hammer, by contractors and residents is permitted on weekdays only between the hours of 9:00 a.m. and 5:00 p.m. and is not permitted on Saturdays, Sundays, and legal holidays.~~

§ 80-6. Measurement of excessive or unwarranted noise.

- A. A determination that excessive or unwarranted noise is caused by a given noise source will be made in accordance with the definition of "noise level" in § 80-3.
- B. To determine if there is a noise violation on private property, the noise measurements shall be made at the boundary of the **abutting** property **in from** which the offending sound source is located. To determine if there is a noise violation in public spaces, the noise measurements shall be made at any location a passerby might lawfully occupy.

§ 80-7. Enforcement and penalties.

- A. The Police, Fire, Health or Inspectional Services Departments, or any designee thereof, shall

have power to enforce this by-law.

- B. Any person who violates any provision of this bylaw, or who is the owner of property on which such violation occurs, shall be fined an amount not to exceed \$50100per first violation, \$100200 for the second violation, and \$200300 for the third and each subsequent violation. Fines issued hereunder shall be issued in accordance with Chapter 1, § 1-6 of the General Bylaws. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue. Each day that such violation continues shall be considered a separate offense.

§ 80-8. Noise mitigation plan for construction.

- (i) A noise mitigation plan **prepared by a credentialed noise mitigation consultant** shall be required prior to the issuance of a building permit for construction projects in or adjacent to residentially zoned areas where:
- (a) The project entails rock removal with heavy machinery, including ledge removal, **rock breaking, percussive breaking** rock pounding, rock crushing, rock drilling or rock cutting **or other ledge work** (~~collectively defined as "ledge work"~~); and
 - (b) Ledge work ~~activities are~~ **is** anticipated to take place on more than seven days over the course of the project.; **or**
 - (c) **Based on the specific conditions of the project, the Building Commissioner determines that said project shall require a noise mitigation plan.**
- (ii) A noise mitigation plan required under this § 80-8 shall, at a minimum, require:
- (a) **The use of portable sound barriers specifically designed for mitigating noise to reduce sound levels outside the barriers by at least 10 dB(A), surrounding and installed as close as practicable to the source of the noise. These barriers must reduce construction noise to prevent noise injury to Town residents.**
 - (b) **That the maximum noise sound levels from all noise sources be under 85 dB(A) at the property line.**
 - (c) **A site plan showing the site boundaries, the locations of proposed ledge work, the locations and range of movement of each proposed noise-producing equipment to be employed, and the locations of nearby residents on all sides of the site.**
 - (d) **The use of specialized monitoring equipment for the measurement of noise as defined by § 80-6, to be collected throughout the periods defined by § 80-4A, unless waived by the Building Commissioner. Collected monitoring data and compliance reporting shall be made available to the Building Department at regular intervals or upon request.**
- ~~(ii) A noise mitigation plan required under this § 80-8 shall, at a minimum, require portable sound barriers designed to reduce sound levels outside the barriers by at least 10 dB(A) surrounding and installed as close as practicable to the source of the noise. These barriers must reduce construction noise to prevent noise injury to Town residents. The objective of this bylaw is to keep maximum noise levels under 85 dB(A) at the property line.~~
- (iii) In the event that a building permit is issued under the assumption that none of the § 80-

8 provisions apply, and it is discovered that such provisions do apply after the project begins, then no ledge work shall begin or continue until a noise mitigation plan is submitted and accepted in accordance with § 80-8(ii).

- (iv) In the event that the builder does not submit or follow a specified noise **mitigation** plan, whether by using inadequate barriers, poor barrier installation, poor maintenance, failure to move them to a new work area on site, or any other problem, then work must cease until the issue is corrected. ~~and a~~ **A** penalty of \$50 per day may be assessed in accordance with provisions of § 80-7 for any days that ledge work took place without a plan or not in accordance with a ~~submitted~~ plan **that complies with this chapter.**
- (v) In addition to the general enforcement provisions of Chapter 80, the Building Department in conjunction with the Public Health Department shall have the power to enforce this section. **Additionally, the Building or Public Health Department shall maintain a record of all complaints received regarding projects subject to noise mitigation plans, to include at a minimum, the date and nature of the complaint, a summary of the adjudication of the complaint, and any corrective or enforcement actions taken.**

MOTION B: That the following sections of the Town's Noise Bylaw, Chapter 80 of the Code of the Town of Lexington be amended as follows (where ~~struck through text~~ is to be removed and **bolded** text is to be added). Sections of the Bylaw not provided below will not be amended. **Amend § 80-4 as follows:**

H. Landscaping

6) Effective March 15, ~~2025~~ **2026**, the use of all gas-powered leaf blowers by commercial landscapers in the Town of Lexington shall be prohibited.

Following remote electronic vote tallying, the Moderator declared that:

Motion to Approve Article 29 as Amended – Amend General Bylaw -Noise Control – Part A

Adopted by a vote of:

Yes	No	Abstain
166	4	4

MOTION CARRIES

Motion to Approve Article 29 – Amend General Bylaw - Noise Control – Part B

Fails by a vote of:

Yes	No	Abstain
69	96	3

MOTION FAILS