

**Proposed Zoning Ordinance Amendment – Highway Noise Overlay District
5/11/2018**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, be amended as follows:

A. Amend the Zoning Map by adding the Highway Noise Overlay District as shown on the map titled “ _____”, dated _____, 2018.

B. Insert a new Section 10.613.60 as follows:

10.613.60 The Highway Noise Overlay District (HN) is identified on the Zoning Map.

C. Insert a new Section 10.670 — Highway Noise Overlay District, as follows:

10.670 Highway Noise Overlay District (HN)

10.671 Purpose

The purpose of this Section is to minimize the impact of highway traffic noise on individuals, businesses and other activities, and to protect the general health, safety and welfare of the City by regulating certain uses, activities, and development within areas subject to projected intense highway traffic noise. This Section is adopted specifically to make the City of Portsmouth eligible for participation in the New Hampshire Department of Transportation’s Type II noise abatement program.

10.672 Applicability

10.672.10 The provisions of this Section shall apply to all land within the Highway Noise Overlay District as defined in Section 10.613.60, except land subject to the land use regulations of the Pease Development Authority.

10.672.20 The provisions of this Section shall overlay and supplement the regulations of any underlying district. If any provision of this Section differs from or appears to conflict with any other provision of the Zoning

Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

10.673 Standards

Noise sensitive uses within the Highway Noise Overlay District shall be planned, designed and constructed to comply with the following standards:

Structures and Uses	Loudest Traffic Hour Sound Level
Interior of dwelling, institutional residence or care facility, hospital or lodging establishment	45 dBA
Interior of other noise sensitive use	55 dBA
Uses with outdoor activities, measured at edge of the active use area closest to the highway	65 dBA

10.674 Conditional Use

10.674.10 Within the HNOD, noise sensitive uses shall require a conditional use permit from the Planning Board.

10.674.11 An addition or extension to a one-family or two-family dwelling that lawfully existed prior to the effective date of this Ordinance, or that was constructed subject to a validly issued conditional use permit, shall be exempt from the standards in Section 10.675 and from the requirement for a conditional use permit, provided that the footprint area of the addition or extension, together with the area of all prior such additions and extensions, shall not exceed 25 percent of the area of the footprint of the principal heated structure existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit. This 25 percent threshold shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar buildings or structures.

10.674.20 A noise analysis prepared in compliance with Section 10.675 must be submitted with any application for a conditional use permit under this section.

10.674.30 An application for a conditional use permit for a noise sensitive use in the Highway Noise Overlay District may be approved only if a noise

analysis prepared in compliance with Section 10.675 demonstrates that any applicable exterior and interior sound level standards established in Section 10.673 will be met through one or more of the following measures:

- (a) Site design to ensure that noise sensitive land uses are placed outside of the applicable noise contour;
- (b) Site design that achieves noise mitigation through placement of accessory structures between the noise source and the noise receiver;
- (c) Installation of a noise barrier; or
- (d) Superinsulated building design and construction.

10.674.40 The Planning Board shall grant a conditional use permit for a noise sensitive use only upon finding that any applicable exterior and interior sound level standards will be met as demonstrated by a noise analysis.

10.675 Noise Analysis

A noise analysis must be prepared by a registered engineer or qualified professional transportation noise analyst who has been trained in the use of the Federal Highway Administration (FHWA) Transportation Noise Model or a replacement model that has been approved by the FHWA. A noise analysis must include the following:

- (1) A description of the proposed development.
- (2) A narrative description of the proposed site configuration and any proposed noise mitigation measures.
- (3) A diagram showing the proposed site configuration including the location of noise sensitive land uses and any proposed noise mitigation measures.
- (4) Unadjusted 60, 65 and 70 dBA noise contours for the loudest traffic hour sound levels shown as an overlay on the site diagram. Noise contours must be developed using the FHWA Transportation Noise Model (or a replacement model that has been approved by the FHWA).
- (5) If the noise analysis shows that projected noise levels will exceed the sound level standard for the applicable activity at the location specified, the noise analysis must include:

- (a) Any adjusted noise contours and site-specific analyses used to adjust the noise contours based on improved topography;
- (b) Calculations to support the noise level reduction of any proposed noise mitigation measure;
- (c) A description of the width, depth, height, length, and materials used in any proposed noise barrier; and
- (d) A description of construction methods and materials used in any proposed superinsulated building design. The sound transmission class must be provided for materials used.

D. Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, by inserting the following terms and definitions in alphabetical order:

Active use area

The land area within 35 feet of a dwelling unit, or other principal use, on the sides closest to the highway where patios, children’s play areas, and outdoor activities are common.

dBA

The sound pressure level in decibels that is frequency weighted to the A-scale according to a frequency response established by the American National Standards Institute (ANSI S1.4-1971) and that approximates the frequency response of the human ear.

Leq(h) [hourly equivalent sound level]

The equivalent, steady-state A-weighted sound level that in one hour contains the same acoustic energy as the time-varying sound level during the same period. This is the average noise over one hour adjusted for human hearing.

Loudest traffic hour sound level

The Leq(h) associated with the loudest highway traffic hour.

Noise barrier

A noise wall, an earth berm, or a noise wall in combination with an earth berm, that obstructs the path of sound from the sound source to the sound receiver.

Noise mitigation

Reduction of the noise that is transmitted from a noise source to a receiver as a result of distance, natural features, noise barriers, or other structures.

Noise sensitive land uses

Residential uses, institutional residence or care facilities, hospitals, lodging establishments, places of assembly, libraries, schools, and day care centers.

Outdoor activities

Residential yards, gardens, patios, pools, etc.; private and public play areas.

Superinsulated

Designed and constructed to achieve a noise level reduction of more than 20 dBA Leq(h) between outdoor and indoor noise levels.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk