

**CODE OF THE TOWN OF CARMEL, NEW YORK, v8 Updated 04-01-2010 / PART II:
GENERAL LEGISLATION / Chapter 104, NOISE / ARTICLE I, Sound Amplifying
and Reproducing Equipment [Adopted as Ch. 45 of the 1972 Code]**

**ARTICLE I, Sound Amplifying and Reproducing Equipment [Adopted as Ch. 45 of
the 1972 Code]**

**CODE OF THE TOWN OF CARMEL, NEW YORK, v8 Updated 04-01-2010 / PART II:
GENERAL LEGISLATION / Chapter 104, NOISE / ARTICLE I, Sound Amplifying
and Reproducing Equipment [Adopted as Ch. 45 of the 1972 Code] / § 104-1.
Title.**

§ 104-1. Title.

This article shall be known and may be cited as "Ordinance No. 19 of the Town of Carmel."

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and Reproducing Equipment [Adopted as Ch. 45 of the 1972 Code] / § 104-2.
Findings.**

§ 104-2. Findings.

The Town Board of the Town of Carmel hereby determines that the health, welfare, safety, good order, peace, quiet and comfort of the inhabitants of the Town of Carmel will be preserved by regulating the use and operation of loudspeakers, sound devices, amplifiers and other devices by which the human voice or other sounds are carried, reproduced, amplified or increased in volume or intensity.

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and Reproducing Equipment [Adopted as Ch. 45 of the 1972 Code] / § 104-3.
Definitions.**

§ 104-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

SOUND DEVICE, LOUDSPEAKER, AMPLIFIER AND APPARATUS -- Any device or apparatus by which the human voice or any other sound or sounds are carried, reproduced, amplified or increased in volume or intensity.

TO USE OR OPERATE ANY SOUND DEVICE, LOUDSPEAKER, AMPLIFIER OR APPARATUS IN, UPON, NEAR OR ADJACENT TO ANY PUBLIC STREET OR PLACE -- To use or operate or cause to be used or operated any sound device, loudspeaker, amplifier or apparatus outside any structure, building, place or premises, or in or through any window, doorway or opening of any structure, building, place or premises, abutting on or adjacent to any public street or place, or in or upon any vehicle operated or standing upon any public street or place, where the sounds therefrom may be heard upon any public street or place or from any stand, platform or other structure or from any aircraft or other device used for flying, flying over the Town of Carmel or on a boat or other craft on the waters within the jurisdiction of the Town of Carmel or anywhere on the public streets or places.

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§ 104-4. Restrictions on use; permit required.

- A. Use and operation of sound devices, loudspeakers, amplifiers and apparatus for commercial and business advertising purposes. It shall be unlawful for any person to use or operate any sound device, loudspeaker, amplifier or apparatus in, upon, near or adjacent to any public street or place for commercial or business advertising purposes.
- B. Use and operation of sound devices, loudspeakers, amplifiers and apparatus for other than commercial or business advertising purposes. It shall be unlawful for any person to use or operate any sound device, loudspeaker, amplifier or apparatus in, upon, near or adjacent to any public street or place without first having obtained a permit for such use, to be issued by the Town Clerk in the manner hereinafter described, and unless he shall comply with the provisions of this article and the terms and conditions prescribed in such permit.
- C. Applications. Each applicant for a permit to use and operate a sound device, loudspeaker, amplifier or apparatus in, upon, near or adjacent to any public street or place shall file a written application with the Town Clerk not later than five days before the date on which such sound device, loudspeaker, amplifier or apparatus is to be used or operated. Such application shall be on forms furnished by the Town Clerk and shall describe the name and

address of the applicant, the name and address of the owner of the premises and specific location of the premises or place for which the permit is sought, the day and hour or hours during which such use and operation is proposed, the make or type and other identification of the sound devices, loudspeaker, amplifier or apparatus to be used, the volume of sound which is proposed to be used, measured by decibels or other efficient method of measuring sound, and such other information as may be necessary for the carrying out of the provisions of this article.

- D. Issuance of permits; terms. No applicant who complies with the provisions of this article shall be denied a permit except for one or more of the reasons specified in § 104-5 hereinafter, or for nonpayment of the fee as prescribed in § 104-6 hereinafter, or to prevent overlapping in the granting of permits. Each permit issued pursuant to this article shall describe the specific location in which such sound device, loudspeaker, amplifier or apparatus may be used or operated thereunder, the exact period of time for which such permit is granted for such location, the maximum volume of sound which may be employed in such use or operation and such other terms and conditions as may be necessary for the purpose of securing the peace, welfare, good order, health, safety, comfort, convenience and peaceful enjoyment by the people of their right to use the public streets and other public places, protecting the health, welfare and safety and securing the peace, quiet and comfort of the inhabitants of the Town of Carmel.

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§ 104-5. Restrictions on permit issuance.

No permit for the use or operation of any sound device, loudspeaker, amplifier or apparatus shall be issued:

- A. For any location within 500 feet of a school, courthouse or place of worship, during the hours of such school, courthouse or place of worship, respectively, or within 500 feet of any hospital or similar institution.
- B. For any location where the Town Board shall determine that the conditions of vehicular or pedestrian traffic, or both, are such that the use or operation of such sound device, loudspeaker, amplifier or apparatus will constitute a threat to the safety of pedestrians or vehicular operations.
- C. For any location where the Town Board shall determine that physical conditions are such that

the use or operation of a sound device, loudspeaker, amplifier or apparatus will deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of any public street or place, or will constitute a threat to the safety or pedestrians or vehicle operators.

- D. For any vehicle or other device while it is in transit.
- E. Between the hours of 11:00 p.m. and 10:00 a.m. on weekdays and 12:30 a.m. on Sundays and holidays, Eastern standard time, or, when in effect, Eastern daylight saving time.

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§ 104-6. Permit fees; duration; exemptions. [Amended 11-26-1986]

- A. The Town Clerk shall collect a fee for each permit for the use and operation of each sound device, speaker, amplifier or apparatus.
- B. Each permit shall be valid for a period not to exceed 30 consecutive business days.
- C. No fee shall be charged to or collected from any bureau or department of the United States government, the State of New York or the Town of Carmel.
- D. The fee shall be established annually by the Town Board and shall be on file in the office of the Town Clerk.

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§ 104-7. Penalties for offenses. EN⁽¹⁾

Any violation of this article is hereby declared to be a violation, and any person, upon conviction of such violation, may be punished by a fine not exceeding \$250 or by imprisonment not to exceed 15 days, or both. In addition, the Town Board may proceed by such other remedies as are provided by law, to correct, abate or restrain any violation of this article.

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GENERAL LEGISLATION / Chapter 104, NOISE / ARTICLE I, Sound Amplifying and Reproducing Equipment [Adopted as Ch. 45 of the 1972 Code] / § 104-8. Waivers.

§ 104-8. Waivers.

The Town Board shall have the power to waive the application of this article or portions thereof with respect to activities or functions conducted by or in behalf of nonprofit organizations, such as, but not limited to, volunteer fire companies, religious or educational groups or individuals.

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ARTICLE II, Noise Control [Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)]

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§ 104-9. Title.

This article shall be known as the "Town of Carmel Noise Control Law."

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§ 104-10. Policy statement.

It is hereby declared to be the policy of the Town of Carmel to prevent excessive, unnecessary or unusually loud noise which may jeopardize the well-being, public health, comfort, convenience, safety, welfare of its citizens and the peace and quiet of Carmel and its inhabitants. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned

purpose.

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-11.
Definitions.**

§ 104-11. Definitions.

A. All definitions used in this article, where applicable, shall be in conformance with the terminology of the American National Standards Institute. A copy of the American National Standards definitions shall be available at the Town Clerk's office for public use.

B. Unless otherwise indicated by context, the following terms and phrases shall mean:

AIR COMPRESSOR -- A device which draws in air or gas, compresses it and delivers it at a higher pressure.

AMBIENT NOISE -- The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

A-WEIGHTED SOUND LEVEL -- The sound-pressure level in decibels as measured on a sound-level meter using the A-weighting network and designated as db(A).

CONSTRUCTION -- Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping.

CONSTRUCTION SITE -- Any location, including land and water, where construction takes place.

CONTINUOUS SOUND -- Any sound that is not an impulsive sound.

DECIBEL (db) -- A unit for measuring the volume of sound, equal to the logarithm to the base 10 of the ratio of the pressure of the sound; and the quantities concerned are proportional to power (American National Standards Institute terminology).

DEVICE -- Any machine, mechanism or equipment which is intended to or which actually produces sound or vibrations.

DISCRETE TONE -- A sound wave whose instantaneous sound pressure varies essentially as a

simple sinusoidal function of time (American National Standards Institute terminology).

EMERGENCY OPERATION -- The operation or parking of an authorized emergency vehicle when such vehicle is engaged in transporting a sick or injured person, responding to or working or assisting at the scene of an accident, disaster, police call, alarm of fire or any emergency.

EXHAUST SYSTEM -- A system which removes and transports air or gas from a device.

FREQUENCY -- A function periodic in time which is the reciprocal of the period.

IMPULSIVE SOUND -- A sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay (American National Standards Institute terminology). (Examples include an explosion or discharge of a firearm.)

L₁₀ -- The A-weighted sound level measured with slow response that is exceeded 10% of the time in any one-hour interval. The measurement time interval need not be one hour, provided that the measurement results are representative of a one-hour interval.

L₉₀ -- The A-weighted sound level measured with slow response that is exceeded 90% of the time in any one-hour interval. The measurement time interval need not be one hour, provided that the measurement results are representative of a one-hour interval.

MAXIMUM GROSS WEIGHT -- The weight of the vehicle unladen, plus the weight of the maximum load to be carried by such vehicle during the registration period or the maximum gross weight for which the vehicle is registered, whichever is greater.

MOTOR VEHICLE -- Every vehicle operated or driven upon a public highway, which is propelled by any power other than muscular power.

MUFFLER -- A device for abating the sound of escaping gases of an internal combustion engine or other sound source.

NOISE-SENSITIVE ZONE -- An area adjacent to a site, including but not limited to any authorized school, church, senior citizen center, day-care center or hospital which requires specific noise limitations.

PAVING BREAKER -- Any powered construction device that is designed to be used or is actually used to cut or trench pavement subbase, macadam, ravel concrete or hard ground.

PERSON -- Includes the singular and plural and also any person, firm, corporation, political subdivision, government agency, association, club, partnership, society or any other form of association or organization, or any legal entity whatsoever.

PUBLIC HIGHWAY -- Any highway, road, street, avenue, public place, public driveway or any

other public way.

RECREATIONAL MOTOR VEHICLE -- Any vehicle which is propelled by any power other than muscular power that is designed for or capable of cross-country travel, such as a motorcycle, trail bike or minibike. A "recreational vehicle" is also classed as a motor vehicle when such "recreational vehicle" is operated or driven upon a public highway. A snowmobile is any self-propelled vehicle designed for travel on snow or ice. Lawn mowers, powered garden vehicles and other similar utilitarian domestic vehicles are specifically excepted therefrom.

REFUSE-COLLECTING VEHICLE -- Any motor vehicle designed to compact and transport refuse.

SOUND -- An oscillation in pressure, stress, particle displacement or other physical parameter in a medium with internal forces (American National Standards Institute terminology).

SOUND LEVEL -- The weighted pressure level, measured by the use of a metering characteristic and the weighing A, B and C (American National Standards Institute terminology).

SOUND-LEVEL METER -- An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks for the measurement of sound levels (American National Standards Institute terminology).

SOUND-REPRODUCTION DEVICE -- Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any musical instrument, radio, television, tape recorder, phonograph or any other sound-amplifying equipment.

SOUND SOURCE -- Any activity or device that produces sound.

SOUND TRUCK -- Any vehicle having mounted thereon or attached thereto sound-amplifying equipment.

ZONING DISTRICT -- Any zone as defined in the Zoning Ordinance of the Town of Carmel.^{EN(2)}

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§ 104-12. Unnecessary noise.

A. Construal of provisions. Any act in violation of any of the provisions of this section is

deemed to be in violation of Subsection B of this section, without in any way limiting the generality of the provisions of said Subsection B.

B. Standards in determining unnecessary noise. No person shall make, continue or cause or permit to be made, verbally or mechanically, any unnecessary noise. An "unnecessary noise" shall mean any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a considerable number of persons or which causes injury to animal life or damages to property or business. Standards to be considered in determining whether unnecessary noise exists include, but are not limited to, the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and the zoning district of the area within which the noise emanates.
- (8) The time of day or night the noise occurs.
- (9) The time duration of the noise.
- (10) Whether the sound source is temporary.
- (11) Whether the noise is continuous or impulsive.
- (12) The presence of discrete tones.

C. Specific prohibitions. The following acts, and the causing thereof, are declared to be in violation of this article:

- (1) Sound-reproduction devices.
 - (a) No person shall operate or use or cause to be operated a sound-reproduction device that produces unnecessary noise.
 - (b) No person shall operate or use or cause to be operated any sound-reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise, in connection

with any commercial operation, in front or outside of any building, place or premises abutting on or adjacent to a public street, park or place or in or upon any vehicle operated, standing or being in or on any public street, park or place or in or upon any vehicle operated, standing or being in or on any public street, park or place. Nothing in this section is intended to prohibit incidental sounds emanating from sporting, entertainment or other public events.

- (c) No person shall operate or use any sound-reproduction device in any public place in such a manner that the sound emanating is audible to other persons.
- (2) Sound-signal devices. No person shall operate or cause to be operated any sound-signal device, including but not limited to any Klaxon, horn, whistle, bell, gong, drum or siren, so as to create unnecessary noise, except required by the Vehicle and Traffic Law of the State of New York.
- (3) Emergency-warning device. No person shall operate or cause to be operated any emergency-warning device, except:
 - (a) To give notice as a warning of any emergency.
 - (b) On an authorized vehicle when such vehicle is engaged in emergency operations.
 - (c) When such device is under test.
- (4) Burglar alarms. No person shall operate or cause to be operated any audible burglar alarm or any motor vehicle burglar alarm unless such alarm shall be capable of automatically terminating operation within 15 minutes after such alarm is first activated. Any member of the Police Department of the Town of Carmel shall have the authority to take such steps as may be necessary to disconnect such alarm at any time when such alarm is operating.
- (5) Animals. No person shall keep, permit or maintain any animal under his/her control to cause unnecessary noise across a residential real property boundary.
- (6) Shouting. No person shall shout, yell, call, hoot, whistle or sing on public streets or in public places in such a manner as to annoy a considerable number of persons.
- (7) Containers and construction material. No person shall load, unload, handle, transport, open, close or destroy any containers or construction material in such a manner as to create unnecessary noise.
- (8) Squealing tires. No person shall operate a vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires of such vehicle.

- (9) Exhausts. No person shall cause or permit the discharge into the open air exhaust of any device, including but not limited to any steam engine, diesel engine, internal combustion engine or turbine engine, so as to create unnecessary noise.
- (10) Domestic power tools and equipment. No person shall operate or permit to be operated any powered tool or equipment, including but not limited to saws, sanders, drills, grinders, lawn or garden tools, mowers, tractors, leaf blowers or gatherers or similar devices, when used outdoors in a residentially zoned district during the hours of 10:00 p.m. to 8:00 a.m., so as to create unnecessary noise.
- (11) Modification of noise-control devices. No person shall operate or permit to be operated any device that has been modified so as to cause the sound emitted to be greater than that emitted by such device as originally manufactured.

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-13.
Sound-level standards.**

§ 104-13. Sound-level standards.

- A. Refuse-collecting equipment. No person shall operate or permit to be operated a refuse-collecting vehicle which, when collecting or compacting, exceeds a sound level of 80 db(A)'s at a distance of 10 feet from any surface of the collecting or compacting unit.
- B. Recreational vehicles, including snowmobiles. No person shall operate or permit to be operated any recreational vehicle:
 - (1) On private property of another without the express prior written consent of the owner and the occupant of said property. Such consent may be revoked at any time by the grantor thereof. Where such express prior written consent has been obtained, the operator or person at the site responsible for such operation shall keep said consent on his person and available for immediate display at all times during the period of such operation. Excepted from the operation of this subsection are any private clubs or other organizations that permit the operation of recreational motor vehicles on their property in connection with the principal use of said property by the members of any such club or organization.
 - (2) On any public grounds or property, including Town- or school-owned land, which shall include but not be limited to parks, ball parks and recreation areas.

- (3) In such a manner as to create unnecessary noise so as to unreasonably disturb or interfere with persons in the peaceful and quiet enjoyment of their property. To this end, no person shall operate a recreational motor vehicle before the hour of 9:00 a.m. and after the hour of 7:00 p.m., prevailing time, or sunset, whichever shall first occur.
- (4) In a careless, reckless or negligent manner so as to endanger the safety or property of any person.^{EN(3)}
- C. Air-conditioning and air-handling devices. No person shall operate or permit to be operated an air-conditioning or air-handling device that exceeds the maximum sound-level limitations provided in this section.
 - (1) In areas zoned residential, single-family or multiple-dwelling units, continuous sound in air which has crossed the property line shall not exceed 55 db(A)'s at any point.
 - (2) The provisions of this section shall not apply if the sound from the air conditioner or air-handling device produces less increase than five db(A)'s in the sound level that exists in the absence of such sound.
- D. Air compressors. No person shall operate or permit to be operated an air compressor, unless a muffler certified by the manufacturer of such muffler to provide a dynamic insertion loss of not less than 20 db(A)'s of the sound emitted from the exhaust of such compressor is installed on such exhaust.
- E. Paving breakers. No person shall operate or permit to be operated a paving breaker manufactured prior to December 31, 1974, other than one operated electrically or hydraulically, unless a muffler certified by the manufacturer of such muffler to provide a dynamic insertion loss of five db(A)'s of the sound emitted from the air exhaust of such paving breaker is installed on such air exhaust.
- F. Places of public entertainment. No person shall operate or permit to be operated a place of public entertainment, including but not limited to a restaurant, bar, cafe, discotheque or dance hall, in which the sound level is equal to or exceeds 95 db(A)'s for more than 30 seconds at the location of the spectators or which does not meet the levels provided for in § 104-14.
- G. Street and parking lot sweeping equipment. No person shall operate or permit to be operated street or parking lot sweeping equipment between the hours of 11:00 p.m. and 7:00 a.m. which, when sweeping, exceeds a sound level of 45 db(A). [Added 10-18-2000 by L.L. No. 4-2000]
- H. Revisions and amendments. The subsections and provisions of this section shall be revised or amended from time to time in order to be kept current.^{EN(4)}

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-14.
Sound levels by receiving land use.**

§ 104-14. Sound levels by receiving land use.

- A. Sound levels limited; method of measurement. No person shall operate or permit to be operated in a zoning district, as defined in the Town of Carmel Zoning Ordinance,^{EN(5)} any device that produces a sound level exceeding the limitations in this section. The measurement of any sound or noise shall be made with a sound-level meter using an A-scale decibel level. The measurement shall be conducted at the property line on which such noise is generated or perceived, whichever is appropriate in a residential district, or at the boundary lines of the receiving land use district.
- B. Residential-zoned districts.
- (1) During the hours of 8:00 a.m. to 6:00 p.m., noise levels within any residential-zoned district shall not exceed 65 db(A)'s or an L_{10} in excess of 60 db(A)'s.
 - (2) During the hours of 6:00 p.m. to 8:00 a.m., noise levels within any residential-zoned district shall not exceed 55 db(A)'s or an L_{10} in excess of 50 db(A)'s.
 - (3) The sound levels specified in Subsection B(1) and (2) shall be decreased by five decibels if the sound contains impulsive or discrete tone characteristics.
- C. Commercial-zoned districts. Noise levels within any commercial/retail-zoned districts shall not exceed 65 db(A)'s or an L_{10} of 60 db(A)'s.
- D. Construction activities. No person shall conduct or permit to be conducted construction activities in a manner so as to produce a sound level exceeding the limitations in this section.
- (1) Residential-zoned districts. During the hours of 8:00 a.m. to 6:00 p.m., noise levels from a construction site shall not exceed an L_{10} of 70 db(A)'s when measured at a distance of 400 feet from the construction site; during the hours of 6:00 p.m. to 8:00 a.m., noise levels shall not exceed an L_{10} of 55 db(A)'s when measured at a distance of 400 feet from the construction site.
 - (2) Commercial retail-zoned districts. During normal business hours, noise levels shall not exceed an L_{10} of 75 db(A)'s when measured at a distance of 400 feet from the construction site; during other than normal business hours, noise levels shall not exceed

and L_{10} of 80 db(A)'s when measured at a distance of 400 feet from the construction site.

- E. Noise-sensitive zones. No person shall cause or permit the creation of any unnecessary noise exceeding 55 db(A)'s on any street, sidewalk or public place adjacent to any school, church, senior citizen center or authorized day-care center while in use or adjacent to any hospital at any time, provided that signs are displayed so as to identify such zone.

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-15.
Enforcement. [Amended 1-17-2007 by L.L. No. 1-2007]**

§ 104-15. Enforcement. [Amended 1-17-2007 by L.L. No. 1-2007]

This article shall be enforced by any official authorized to issue and serve appearance tickets under Chapter 3 of the Code of the Town of Carmel or the laws of the State of New York.

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-16.
Penalties for offenses.**

§ 104-16. Penalties for offenses.

- A. Any person violating any of the provisions of this article shall be deemed guilty of a violation and, upon conviction thereof, shall be fined in an amount not exceeding \$250 or be imprisoned for a period not exceeding 15 days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. [Amended 11-1-2006 by L.L. No. 7-2006]
- B. Any person under the age of 16 years who shall violate any of the provisions of this article shall be deemed to be a juvenile offender.

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[Adopted 5-13-1981 by L.L. No. 5-1981 (Ch. 24A of the 1972 Code)] / § 104-17.
Exceptions.**

§ 104-17. Exceptions.

The operation of vehicles and equipment used by the Town of Carmel Highway Department in the performance of official duties shall be exempt from the requirements of this article until such time as vehicles and equipment capable of compliance are available and acquisition thereof is authorized by the Town Board.