

ORDINANCE

TOWN OF MOULTONBOROUGH, NEW HAMPSHIRE

An Ordinance Relative to Unnecessary Noise

Recognizing that people have a right to and should be ensured an environment free from excessive sound and vibration capable of jeopardizing health, safety or welfare, or of degrading quality of life, this Ordinance is enacted to protect, preserve and promote the health safety, welfare and quality of life for residents and visitors to the Town of Moultonborough. This Ordinance provides for the reduction, control and prevention of noise by prohibiting certain noise-producing activities. This Ordinance promotes inspection and enforcement by defining offenses and penalties.

Section 10.1 Definitions

1. **Construction** means any and all physical activity necessary or incidental to the erection, placement, demolition, assembling, altering, cleaning, repairing, installing or equipping of buildings and other structures, public or private highways, roads, premises, parks, utility lines or other property and shall include land clearing, grading, excavation, filling and paving.
2. **Demolition** means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
3. **Domestic Power Equipment** means power equipment intended for use in residential areas by homeowners. Examples include, but are not limited to, chain saws, log-splitters, power saws, drills, grinders and lawn and garden tools.
4. **Emergency** means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.
5. **Muffler** means a device consisting of a series of chambers or baffle plates, or other mechanical design for the purposes of receiving exhaust gases and effectively reducing noise. (RSA 259:66)
6. **Noise** means any sound which annoys or disturbs a person or that causes or tends to cause an adverse psychological or physiological effect on a person.
7. **Noise Disturbance** means any sound that endangers or injures the safety or health of a person, or annoys or disturbs a reasonable person of normal sensitivities that can cause one or more of the following effects:
 - a. temporary or permanent hearing loss in persons exposed;

- b. injury to or tendency to injure, on the basis of current information, the public health or welfare;
 - c. unreasonable interference with the comfortable and reasonable enjoyment of life and property, or interference with the conduct of business; or,
 - d. exceeding the limits or restrictions established herein or pursuant to the granting of any permit by the Town.
8. **Night** means the period between sunset and sunrise.
 9. **Person** means an individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau or agency or any other entity recognized by law as having rights and duties.
 10. **Tractor-Trailer** means any truck, tractor and semi-trailer. (RSA 257:109)
 11. **Truck** means every motor vehicle designed, used or maintained primarily for the transportation of property. (RSA 259:115-116)

Section 10.2 Noises Prohibited – Unnecessary Noise Standard. The following acts are declared to be noise disturbances and are prohibited by this Ordinance.

1. Radios, Stereos, Musical Instruments, PA Systems, etc. The using, operating or permitting to be played of any radio receiving set, musical instrument, stereo, public address systems or other machine or device for the producing or reproduction of sound in such manner as to disturb the health, safety and welfare of the neighboring inhabitants at any time; the operation of any such set, instrument, stereo, machine or device between the hours of 10:00 p.m. and 7:00 a.m., Sundays through Thursdays, 12:00 a.m. and 7:00 a.m., Fridays and Saturdays, in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
2. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device that effectively prevents loud or explosive noises therefrom. (RSAs 266:54, 266:59, 266:59-a, 270:25)
3. Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling, explosive or other noise.
4. Snow-traveling Vehicles, Trail Bikes and Off-Highway Recreational Vehicles. Any person owning, leasing or controlling the operation of such vehicles shall comply with the provisions of RSA 215-A:12.

5. Construction or Repairing of Buildings. The erection (including excavation), demolition, blasting, alteration or repair of any building or property that generates noise other than between the hours of 6:00 a.m. 9:00 p.m., except in cases of an emergency in the interest of public health and safety. All equipment used for construction shall have properly installed and maintained silencing systems, as originally furnished by the equipment manufacturer. Unmuffled exhaust or intake systems on mobile or stationary equipment shall not be permitted.

6. Pile Drivers, Hammers, Engine Repair, etc. The operation except between the hours of 6:00 a.m. and 9:00 p.m., of any construction equipment, pile driver, steam shovel, pneumatic hammer, air compressor, derrick, steam or electrical hoist, mechanical or engine repairing or other appliance, the use of which is attended by loud or unusual noise.

Section 10.3 Exclusions and Exemptions

1. Exclusions. This Section shall apply to noise emitted by or related to any of the following:
 - a. Any bell or chime from any school or place of worship.
 - b. Any siren, whistle or bell lawfully used by emergency vehicles.
 - c. Any siren, whistle, bell or other sound-generating device used by an alarm system in an emergency situation provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful.

2. Exemptions. This Section shall not apply to noise emitted by or related to the following:
 - a. Noise created by emergency vehicles in the lawful performance of their duties or as a result of or relating to an emergency.
 - b. Noise from domestic power equipment operated between the hours of 6:00 a.m. and 9:00 p.m.
 - c. Noise from snow removal equipment.
 - d. Noise created by any aircraft flight operations which are specifically pre-empted by the Federal Aviation Administration.
 - e. Noise created to perform emergency work to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger or damage.

- f. Noise created by blasting between the hours of 6:00 a.m. and 9:00 p.m., provided that a permit for such blasting is obtained from local authorities and that sufficient notice to surrounding properties is made.

- Section 10.4 Penalty. Any person violating any of the provisions of this ordinance shall be guilty of a violation. The penalty for a first offense shall not be less than one hundred dollars (\$100). A second or subsequent offense shall constitute a fine of not less than two hundred fifty dollars (\$250).
- Section 10.5 Manner of Enforcement. Violations of this ordinance shall be prosecuted in the same manner as other violations of the Ordinances of the Town of Moultonborough. Complaints may be brought by the Police Department or the Code Enforcement of the Town of Moultonborough or its Agents.
- Section 10.6 Additional Remedy – Injunction. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to the reasonable person of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- Section 10.7 Separability. It is the intention of the Board of Selectmen that each separate provision of this ordinance shall be deemed independent of all other provisions herein. It is further the intention of the Board of Selectmen that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

This ordinance shall be in effect upon its passage. Passed and approved this 13th day of August, 1998.

Douglas W. Murphy, Sr., Chairman
Russell C. Wakefield
Ernest E. Davis, Jr.

BOARD OF SELECTMEN