

ORDINANCE – Number 10

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, 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. **Reserved.**
6. **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)
7. **Noise – Noise Disturbance –** causing a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by.
 - a. Making loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place that can be heard in a public place or other private places, which noises disturb a person of average sensibilities; or,

- b. Disrupting the orderly conduct of business in any public or governmental facility; or,
 - c. Disrupting any lawful assembly or meeting of persons without lawful authority; or,
 - d. Creating any sound that endanger 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 affects:
 - 1.) Temporary or permanent hearing loss in persons exposed;
 - 2.) Injury to or tendency to injure, based on current information, the public health or welfare;
 - 3.) Unreasonable interference with the comfortable and reasonable enjoyment of life or property, or interference with the conduct of business; or,
 - 4.) 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-b)

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

1. Vehicle or Portable Sound Systems: When noise under subparagraph 10:1 (6) is emanating from a vehicle’s sound system or any portable sound system located within a vehicle, a law enforcement officer shall be considered a person of average sensibilities for purposes of determining whether the volume of such noise constitutes a breach of the peace, public inconvenience, annoyance or alarm and the officer may take enforcement action to abate such noise upon detecting the noise or upon receiving a complaint from another person.
2. 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 (week night), 12:00 a.m. and 7:00 a.m., Fridays and Saturdays (and Sundays during a three-day weekend) , 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.

3. Exhausts. The expressly forbids the discharge into the open air 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 there from. (RSAs 266:54, 266:59, 266:59-a, 270:25)

Every motor vehicle shall be at all times equipped with a muffler as defined in RSA 259:66, in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a way. No person shall operate a motor vehicle with as straight pipe exhaust system; "straight pipe exhaust system" means any straight-through exhaust system that does not contain baffles or otherwise does not meet the definition of muffler in RSA 259:66. Any person who violated the provision of this paragraph shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100) for a first offense, two hundred fifty dollars (\$250) for a second offense in a calendar year and five hundred dollars (\$500) for a third or subsequent offense in a calendar year. RSA 266:59, I, IV.

4. Defect in Vehicle or Load. This ordinance prohibits the use of any automobile, motorcycle or vehicle that is in such ill repair, so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling, explosive or other noise.
5. 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.
6. Construction or Repairing of Buildings. The erection (including excavation), demolition, blasting (demolition using explosives), 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. This ordinance forbids the use of an unmuffled exhaust or intake systems on mobile or stationary equipment.
7. Blasting, Pile Drivers, Hammers, Engine Repair, etc. This ordinance forbids, except between the hours of 6:00 a.m. and 9:00 p.m., blasting (demolition using explosives), the operation of any construction equipment, pile driver, steam shovel, pneumatic hammer, air compressor, derrick, steam or electrical hoist, or the repair of mechanical device, engine or other appliance, 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 provided, however, that burglar alarms not terminating within thirty (30) minutes after activation 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 performed in response to 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.

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 be one hundred dollars (\$100). The fine for a second offense occurring in a calendar year shall be two hundred fifty dollars (\$250). The fine for a third or subsequent offense occurring in a calendar year shall be five hundred dollars (\$500).

Section 10.5 Manner of Enforcement. Town Officials and Agents shall prosecute violations of this ordinance in the same manner as other violations of the Ordinances of the Town of Moultonborough. The Police Department, the Code Enforcement Officer, the Board of Selectmen of the Town of Moultonborough, or their Agents, may bring forward complaints regarding non-compliance with the provisions of this ordinance.

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 independent of all other provisions herein. It

is further the intention of the Board of Selectmen that should proper authority declare any provision of this ordinance 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 5th day of September, 2013.

BOARD OF SELECTMEN

Joel R. Mudgett
Jonathan W. Tolman
Edward J. Charest
Christopher P. Shipp
Russell C. Wakefield

History: Passed and Approved August 13, 1998.
 Amended September 21, 2006.
 Amended September 5, 2013

Ratified, after amending the Ordinance to strike the wording at section 10.1.5 and insert the word "Reserved" in lieu thereof and striking 10.2.8 in its entirety, as adopted and previously amended this 14th day of March, 2015 by vote of the Town Meeting under Article 9.

A True Copy, attest,



Barbara Wakefield
Town Clerk

This 17th day of March, 2015.