

Noise Regulation

Ordinance #15-01

In accordance with RSA 31:39, I (n), the Town of Andover hereby adopts the following Ordinance to regulate noise and to provide for the promotion of public health, comfort, convenience, safety, welfare, prosperity and the peace and quiet of the Town and its citizens.

SECTION 1

PURPOSE AND INTENT

Because the creation and/or maintenance of loud, unnecessary or unusual noises, within the Town of Andover, which are prolonged, unusual and unnatural in their time, place and use, detrimentally affect public health, comfort, convenience, safety, welfare and prosperity of Town citizens, the Town ordains it necessary and appropriate to enact the following provisions and prohibitions.

SECTION 2

DEFINITIONS

For the purpose of this Ordinance, the following words and phrases when used herein shall be construed as follows:

- A) Town - The Town of Andover, New Hampshire.
- B) Board - Board of Selectmen of the Town of Andover.
- C) Construction - Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.
- D) Continuous Sound - Any sound that exists, essentially without interruption, for a period of 10 minutes or more.
- E) Demolition - Dismantling or intentional removal of structures, utilities, public or private right of way surfaces or similar property.
- F) Firearms - means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device, as defined in 18 U.S.C. Section 921.
- G) Fireworks - Any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, as defined in 27 C.F.R. section 555.11 or as otherwise defined by RSA 160-C:1
- H) Impulse Noise - Any noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.
- I) Noise Disturbance - Any sound, whether a continuous sound or an impulse noise which is loud or unreasonable and which disturbs a reasonable person with normal sensitivities.
- J) Person - Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.
- L) Residential Area - Any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.
- M) Undue hardship - A situation or circumstance in which it is unreasonable to require the applicant to conduct the regulated activity during the hours permitted

under the ordinance.

SECTION 3

PROHIBITED SOUNDS AND EXEMPTIONS

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise disturbance which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, within the Town's limits. In addition, this prohibition shall include, but is not limited to, any such loud, unnecessary or unusual noises made during the hours of 10:00 p.m. and 7:00 a.m., seven days per week, unless such noise is exempt below.

SPECIFIC VIOLATIONS

The following specific violations, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance. The following are not intended to be an exclusive delineation of acts which violate this Ordinance. Where an act or continuing conduct is not specifically prohibited below, the enforcing authority should revert back to the general prohibition set forth in Section 2 of this provision, as it is the intent of the Town to maintain the public health, and the comfort, safety, welfare and prosperity of the Town's citizens.

- A. Horns, signaling devices, and the like. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and/or unreasonable period of time; the use of any signaling device, such as a horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when vehicular traffic is held up for any reason.
- B. Any noise occasioned by any one or more of the following actions of or by the operator of any motor vehicle:
 1. Misuse of power exceeding the tire traction limits in acceleration, sometimes known as "peeling rubber; or
 2. Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency; or
 3. Rapid acceleration by means of quick upshifting of transmission gears with either clutch or manual downshifting of transmission gears with either clutch or manual transmission, or automatic transmission; or
 4. Rapid deceleration by means of quick downshifting of transmission gears with either clutch or manual transmission, or automatic transmission; or
 5. Racing engines by manipulation of the accelerator, gas pedal, or carburetor or gear selection
- C. Radio, loudspeakers, phonographs, amplifiers, and the like. The use and operation of, or permission to be played, used or operated of any radio, receiver, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, and comfort of neighboring inhabitants or any time with louder volume than is necessary for the reasonable hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such receiver, instrument, phonographs, machine or device by a commercial establishment between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to plainly audible within a residential area, at a distance of 50 feet from the lot line, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.

- D. Yelling, shouting and the like. Yelling, shouting, hooting, whistling, singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
- E. Animals, birds and the like. The keeping of any animal, bird or pet which by causing frequent and/or long continued noise shall disturb the comfort or repose of any person in the vicinity.
- F. Whistles. The blowing of any locomotive steam whistle or other whistle attached to any stationary boiler except to give notice of the time to begin or to stop work, or as a warning of fire or danger, or upon the request of proper Town authorities.
- G. Vehicular exhaust. The discharge into the open air of exhaust from any steam engine, internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud, unreasonable or explosive noises therefrom.
- H. 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 or other noise.
- I. Loading, unloading and the like. The creation of a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crate, containers or logs.
- J. Construction, repair of building, excavation, and repair of streets and highways.
1. Construction or repair of buildings. The erection, demolition, excavation, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, except in cases of emergency or urgent necessity in the interest of public health and safety, and then only with a permit from the Zoning Administrator, which permit may be granted for a limited time only while the emergency continues or urgent necessity warrants. If the Zoning Administrator should determine that public health and safety will not be impaired and that loss or substantial inconvenience would result to any interested party if the erection, demolition, alteration or repair of any building were not allowed a time other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, he may grant permission for such work to be performed at a time specified by special permit, upon application being made in accord with Section 4 of this Ordinance.
 2. Excavation and repair of streets and highways. Excavation of streets and highways may be done only with the permission granted by the Road Agent under the same restrictions and powers delegated to Zoning Administrator in section 1 (1) above.

- K. Schools, courts, churches, and medical facilities. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any medical facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys medical patients, provided conspicuous signs are displayed in such streets indicating that the same is a school, court, or medical facility street.
- L. Pile drivers, hammers and the like. The operation between the hours of 9:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.
- M. Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- N. Fireworks. Any use of Fireworks between the hours of 9:00 p.m. and 7 a.m., Sundays through Thursdays, or between the hours of 12:00 a.m. and 7 a.m., Fridays and Saturdays, will be prima facie evidence that the user has violated this ordinance. Law Enforcement Officers may confiscate any and all remaining fireworks on-site.
- O. Firearms. Any use of prolonged firearms for recreational purposes between the hours of 9:00 p.m. and 7 a.m., Sundays through Saturday, will be prima facie evidence that the user has violated this ordinance. This subsection shall not apply to firearm noise resulting from licensed hunting activities.

SECTION 4

EXEMPTIONS

The following categories of uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure relief valves.
- B. Noises resulting from any authorized vehicle when responding to an emergency call or acting in time of emergency.
- C. Noises resulting from emergency maintenance work as performed by the town, by the state or by public utility companies, to include snow removal operations.
- D. Municipal maintenance work where the abutters to the work site have been given prior notice of the project.
- E. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town.
- F. Vehicles, tools and equipment enumerated in Section 857 B(1) and (2), except during time periods of their prohibited use.

- G. Snowblowers and other types of private or commercial snow removal operations.
- H. Noise resulting from the use of emergency generators during periods of power loss
- I. Parades and public gatherings for which the Town of Andover has issued a permit.
- J. Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services and those bells, chimes or carillons that are presently installed and in use for any purpose.

SECTION 5

APPLICATION FOR SPECIAL PERMIT

Application for a permit for relief from the noise prohibitions set forth in Sections 3 of this Ordinance, for a special circumstance of temporary duration, may be made to the Zoning Administrator or Town Administrator. Any permit granted by an authorized Town official shall set forth all conditions pertaining to the specified noise and circumstance, and shall specify a reasonable time limit for its abatement. Application for a special permit shall under no circumstances be granted for a Sunday, at any time.

SECTION 5

ENFORCEMENT AND PENALTIES

Upon receipt of a noise complaint, the Andover Police Department, the Town's Zoning Administrator and/or other enforcement authorities, shall investigate, record their findings(s), and take appropriate action, in the officer's discretion. Any person convicted of a violation of this Ordinance shall be subject to the following penalties as permitted by RSA 31:39, III, with a maximum penalty not to exceed \$1,000.00.

- A. First offense: \$100.00
- B. Second offense \$200.00
- C. Third or subsequent offense within a 23(24?) month period: \$500.00

SECTION 6

SEVERABILITY

Should any provision of this Ordinance be held invalid by any court of authority or competent jurisdiction, such holding shall not affect, impair or invalidate any remaining provisions which shall remain in full force and effect.

To this end, the provisions of this Ordinance are severable.

ADOPTED:

PROBATION