

TOWN OF NEWTON

NOISE ORDINANCE

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Adopted by the Board of Selectmen on June 19, 2006

Gary F. Nelson, Chairman

John P. Ulcickas

Robert S. Donovan, Jr.

Recorded with the Newton Town Clerk on _____

Raymond D. Thayer, Town Clerk

TOWN OF NEWTON

NOISE ORDINANCE

Article I

In accord with RSA 31:39, the Town of Newton 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 Newton, 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: Prohibited Sounds and Exemptions

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud and unnecessary or unusual noise or any noise 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 and unnecessary or unusual noises made between the hours of 10 p.m. and 7 a.m., seven days per week, unless such noise is exempt below.

This prohibition specifically exempts persons operating vehicles, machinery, or equipment while engaged in snow clearance or snow removal operations, *so long as* such operations are performed within 3 days of the cessation of a winter storm resulting in the accumulation of at least three (3) inches of snow within the Town's limits.

This prohibition also exempts municipal maintenance work where the abutters to the work site have been given prior notice of the project.

This prohibition further exempts noise resulting from activities of a temporary duration permitted by law and for which a special permit therefore has been granted in advance by the Town.

Section 3: 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. *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 p.m. and 7 a.m. in such a manner as to be 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.
- C. *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling, singing on the public streets, particularly between the hours of 10 p.m. and 7 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.
- D. *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 with the exception of certified organic farmers.
- E. *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;

- F. *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.
- G. *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.
- H. *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, crates, and containers.
- I. *Construction, repair of buildings, 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 a.m. and 9 p.m., Monday through Saturday and 10 a.m. to 6 p.m. on Sunday, except in cases of emergency or urgent necessity in the interest of public health and safety, and then only with a permit from the Code Enforcement Officer and/or other enforcement authorities, which permit may be granted for a limited time only while the emergency continues or urgent necessity warrants. If the Code Enforcement Officer and/or other enforcement authorities 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 at a time other than between the hours of 7 a.m. and 9 p.m., Monday through Saturday and 10 a.m. to 6 p.m. on Sunday, may be granted 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 Town's Road Agent under the same restrictions and powers delegated to the Code Enforcement Officer and/or other enforcement authorities" in section I (1) above.
- J. *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.
- K. *Pile drivers, hammers and the like.* The operation other than between the hours of 7 a.m. and 9 p.m. Monday through Saturday and 10 a.m. to 6 p.m. on Sunday 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.

- L. *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.

Section 4: Application for Special Permit

Application for a permit for relief from the noise prohibition set forth in Sections 2 and 3 of this Ordinance, for a special circumstance of temporary duration, may be made to the Board of Selectmen. 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.

Section 5: Enforcement and Penalties

Upon receipt of a noise complaint, the Newton Police Department, the Town's Code Enforcement Officer and/or other enforcement authorities, shall investigate, record their finding(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 676:17, 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 12 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.