

CHAPTER 13D

NOISE/NUISANCE CONTROL

13D:1 PURPOSE

Recognizing that people have a right to and should be ensured an environment free from excessive sound and vibration capable of jeopardizing their health, safety or welfare, or of degrading their quality of life, this Ordinance is enacted to protect, preserve and promote the health, safety, welfare, and quality of life for the citizens of the City of Somersworth, New Hampshire, through the reduction, control and prevention of noise by prohibiting certain noise-producing activities, and providing for inspection, definition of offenses, and penalties.

13D:2 DEFINITIONS

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.

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Domestic Power Equipment means power equipment intended for use in residential areas by homeowners (Examples include but are not limited to: chainsaws, log splitters, power saws, drills, grinders, lawn and garden tools, etc.)

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Muffler means a device consisting of a series of chambers or baffleplates or other mechanical design for the purposes of receiving exhaust gases and effectively reducing noise (RSA 259:66).

Noise means any sound which annoys or disturbs a person or which causes or tends to cause an adverse psychological or physiological effect on a person.

Noise Disturbance means any sound which endangers or injures the safety or health of a person, or annoys or disturbs a reasonable person of normal sensitivities which can cause one or more of the following effects:

- A. temporary or permanent hearing loss in persons exposed; or
- B. injury to or tendency to injure, on the basis of current information, the public health or welfare; or

- 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 City.

Night means the period between sunset and sunrise.

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.

Tractor-Trailer means any truck, tractor and semi-trailer (RSA 257:109).

Truck means every motor vehicle designed, used or maintained primarily for the transportation of property (RSA 259:115-6).

13D:3 NOISES PROHIBITED – UNNECESSARY NOISE STANDARD

The following acts are declared to be noise disturbances and are prohibited by this Ordinance:

- A. Radios, Stereos, Musical Instruments, Etc.: The using, operating, or permitting to be played of any radio receiving set, musical instrument, stereo, 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 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- B. Loud Speaker, Amplifiers for Advertising: The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, stereo, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising except by permit issued by the City Licensing Board.
- C. Animals, Birds, Etc.: The keeping of any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance.
- D. Steam Whistles: The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.
- E. 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 which will effectively prevent loud or explosive noises therefrom.

- F. 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.
- G. Snow-traveling Vehicles, Trail Bikes, and Off-Highway Recreational Vehicles: Any person owning, leasing, or controlling the operations of such vehicles shall comply with the provisions of RSA 215-A:12.
- H. Truck Idling: No person shall operate a diesel engine, tractor-trailer, or any standing motor vehicle with a weight in excess of 10,000 pounds GVW (Gross Vehicle Weight) or refrigeration or compressor engine on a tractor-trailer or truck for a period in excess of 10 minutes when such vehicle is parked on a residential premises or on a City road next to or across from residential premises between the hours of 9:00 p.m. and 7:00 a.m.
- I. 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 7:00 a.m. until dark, 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. Un-muffled exhaust or intake systems on mobile or stationary equipment shall not be permitted.
- J. Pile Drivers, Hammers, Engine Repair, Etc.: The operation between the hours of 9:00 p.m. and 7:00 a.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 noises.

13D:4 EXCLUSIONS AND EXEMPTIONS

- A. Exclusions: This Chapter shall not apply to noise emitted by or related to any of the following:
 - (1) Any bell or chime from any school or place of worship.
 - (2) Any siren, whistle or bell lawfully used by emergency vehicles.
 - (3) 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 30 minutes after being activated shall be unlawful.
- B. Exemptions: This chapter shall not apply to noise emitted by or related to the following:

- (1) Noise created by emergency vehicles in the lawful performance of their duties or as a result of or relating to an emergency.
- (2) Noise from domestic power equipment operated between the hours of 7:00 a.m. and 9:00 p.m.
- (3) Noise from snow removal equipment.
- (4) Noise created by any aircraft flight operations which are specifically pre-empted by the Federal Aviation Administration.
- (5) 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.
- (6) Noise created by blasting between the hours of 7:00 a.m. and 9:00 p.m., provided that a permit for such blasting has been obtained from local authorities and that sufficient notice to surrounding properties has been made.

13D:5 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 \$100. A second or subsequent offense shall constitute a fine of not less than \$250.

13D:6 MANNER OF ENFORCEMENT

Violations of this ordinance shall be prosecuted in the same manner as other violations of the ordinances of the City of Somersworth. Complaints may be brought by the Somersworth Police Department or the Code Enforcement Officer of the City of Somersworth or its Agent.

13D:7 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.

13D:8 SEPARABILITY

It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein and it is further the intention of the City Council that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable. Passed May 4, 1992.