

TOWN OF NEW PORTLAND Unnecessary Noise Ordinance

Section 1- Findings and Purpose

The Town of New Portland (“the Town”) finds that controlling excessive noise as provided herein is necessary to promote the health, welfare and safety of the citizens of the Town. It is the purpose of this Ordinance to prevent any person from making, continuing, or causing noise that unreasonably interferes with the comfort, health, or safety of others within the Town. This Ordinance is not designed to impede any person’s First Amendment rights of freedom of speech. This Ordinance is not designed to impede the growth or economic health of businesses or citizens of the Town. This Ordinance is designed to prohibit excessive and unreasonable sound and vibrations that are hazards to the public health, welfare, safety and quality of life only.

Section 2- Prohibition

- A. It shall be unlawful for any person in a public or private place to intentionally or recklessly cause annoyance to others by intentionally or unintentionally making loud and unreasonable noises as defined in Section 1 after having been ordered by a law enforcement officer to cease the noise.
- B. For the purposes of this section, the term “noise” shall include, but not be limited to:
 - 1. Excessive, unnecessary or unreasonable sound created by radios or other electronic or mechanical devices capable of amplifying or projecting ambient noise, including such devices operated within motor vehicles:
 - 2. Excessive, unnecessary or unreasonable sound created in connection with loading and unloading commercial vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - 3. Excessive, unnecessary or unreasonable sound created from timber harvesting activities between the hours of 10:00 p.m. and 6:00 a.m.;
 - 4. Excessive, unnecessary or unreasonable sound created by recreational vehicles, including all-terrain vehicles, snowmobiles, motorbikes, watercraft, and other such vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - 5. Excessive, unnecessary or unreasonable sound created by a motor vehicle operated on any public or private way which results in excessive, loud or unusual noise as the result of the tires of said vehicle spinning on dry pavement, loud engine noise, or as the result of cutting out or modifying the exhaust system from its original design.
 - 6. Excessive, unnecessary or unreasonable sound created by a loud report such as from fireworks or from a gunshot or explosive, between the hours of 10:00 p.m. and 6:00 a.m. unless otherwise exempted by State law or the provisions in the fireworks ordinance.

Section 3- Exceptions

The following are exempt from the provisions of Section 2.

- A. Federal, State, and local governmental activities, whether conducted by the governmental agency or by a private contractor acting on the government agency’s behalf, including, but not limited to, activities of police, fire, rescue, schools, and public works.

- B. Activities of utility agencies, including, but not limited to, vehicles and activities for the provision of water, electricity, gas and telephone service.
- C. Natural phenomena.
- D. Warning devices required by OSHA or any other State or Federal regulatory agency.
- E. Noise created from domestic power equipment such as, but not limited to, chain saws, sanders, grinders, lawn and garden tools, or similar devices operated during daylight hours.
- F. Noise generated from firearms being used lawfully for target practice or to "sight in" during daylight hours.
- G. Noise from trains operating in conformity with or pursuant to all applicable state and federal laws and regulations.
- H. Noises created by plows, trucks and other equipment in the removal of snow.
- I. Noise generated by machinery being operated during "mud season" (spring time only) beyond the normal permissible hours (9:00 p.m. to 6:00 a.m.).
- J. Emergency or extraordinary situations.
- K. Farm equipment or farming activity.
- L. Noise created by lawful blasting.
- M. Noise created by refuse and solid waste collection.
- N. Noise generated by engine braking systems used in commercial trucks to safely slow the vehicles momentum on sloped roadways.
- O. Expression or communication protected by the United States or Maine Constitutions
- P. Any activity or conduct the regulation of which has been preempted by Maine law.
- N-Q. Any noise for a certain event, which a permit has been issued by the Board of Selectmen, and/or the Town Manager, allowing the time to extend to midnight.

Section 4- Violations & Penalties

- A. Any member of the Somerset County Sheriff's Office is authorized to enforce this Ordinance upon complaint or upon the officer's own observation of a violation in progress.
- B. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of this Ordinance is deemed to be in violation of this ordinance.
- C. Violations of this section will be treated as a civil violation as defined by 17-A M.R.S.A. Section 4-B and enforced by a law enforcement officer according to the procedures specified in 17-A M.R.S.A. Section 17 and Rule 80H of the Maine Rules of Civil Procedure, punishable by a fine of \$100.00 for the first offense, \$250.00 for the second offense, \$500.00 for the third offense, and \$1000.00 for the fourth and all subsequent offenses. If the Town is the prevailing party to an enforcement action, it shall be entitled to attorney's fees and associated costs unless extraordinary circumstances make such an award unjust.
- D. If a violator of this noise ordinance is charged for excessive noise and the violator willfully refuses to comply with this ordinance, the violator may be charged again after one hour and then every subsequent hour until the noise stops.

Section 5- Definitions

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meaning:

- A. "Public place" means a place to which the public at large or a substantial group has access, including by not limited to:
 - 1. Public ways; public way means any public highway or sidewalk, private way laid out under the authority of statute, way dedicated to public use, way upon which the public has a right of access or had access as invitees or licensees, or way under the control of park commissions or a body having like powers;
 - 2. Schools and government-owned facilities; and
 - 3. The lobbies, hallways, lavatories, toilets and basement portions of apartment houses, motels, public buildings and transportation terminals.

- B. "Private place" means any place that is not a public place.

Commented [PS1]: These definitions are not currently needed as the terms "public place" and "private place" are not otherwise used in this Ordinance.