

## **TOWN OF LEBANON NOISE CONTROL ORDINANCE**

### **1. PURPOSE**

It is found and declared by the Town of Lebanon that:

- The making and creation of excessive, unnecessary or unusually loud noises within the limits of the town is a condition which has existed sporadically for some time, and the extent and volume of such noises has been recently increasing; and
- The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to the public health, safety, welfare and quality of life of the residents of the Town; and
- The necessity and the public interests for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life of the Town and its inhabitants.

### **2. UNLAWFUL NOISE PROHIBITED**

It is unlawful for any person to make, emit, continue, or cause to be made, emitted or continues, any noise beyond the boundaries of that person's property in excess of the noise levels established in this Ordinance. Where multiple residencies exist within the confines of a structure, the limits of one's occupancy right shall be considered the boundary.

### **3. PUBLIC DISTURBANCE NOISES**

It is unlawful for any person to cause, or for any person in possession of real or personal property to allow to originate from such property, a public disturbance noise. Provided, that owners or possessors of real property shall not be responsible for public disturbance notices created by trespassers. The following sounds are public disturbance noises:

- Frequent, repetitive or continuous sound of any horn or siren attached to a motor, vehicle, except as a warning of danger or as specifically permitted or required by law;
- Frequent, repetitive, or continuous sounds from starting, operating, repairing, rebuilding, or testing of any motor vehicle, motorcycle, dirt bike, or other off-highway vehicle, or any internal combustion engine, within a rural or residential district, and which unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property in the area affected by such noise;
- Use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure, or property or contents therein except as permitted by law, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection.

- Any loud and raucous sound made by use of a musical instrument, whistle, sound amplifier, or other device capable of producing or reproducing sound which emanate frequently, repetitively or continuously from any building, structure or property, such as sound originating from a band session, tavern operation, or social gathering, and which unreasonably disturb, or interfere with the peace, comfort and repose of possessors of real property in the area affected by such noise;
- Noise from portable or motor vehicle audio equipment, such as a tape player, radio, or compact disc player, while in park areas, residential and commercial zones, or any area where residents, schools, human service facilities, or commercial establishments are in obvious proximity to the source of the sound, and where the volume of such audio equipment is such that it can be clearly heard by a person of normal hearing at a distance of fifty feet or more from the source of the sound; provided, however, that this section shall not apply to persons operating, portable audio equipment within a public park pursuant to an event sanctioned by a reasonable authority under valid permit or license.

4. **NOISE LEVEL STANDARDS**

Sound or noise from any source within the Town shall not exceed the following equivalent continuous sound level (Leq) limits, to be measured at the lot line of the receiving property and in accordance with Section V:

**Daytime Hours**

70 dBA

**Nighttime Hours**

70 dBA

5. **EXCLUSIONS**

The noise levels set forth in Section 4 do not apply to noise emitted by or related to the following:

- Natural phenomena.
- Church bells rung as part of any official church ceremony or service, and tower clock bells ringing the hour during daytime hours, provided that at no time shall such duration exceed thirty (30) minutes.
- Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation, provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful.
- Warning devices required by OSHA or other State or Federal safety regulations.
- Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools, lawn mowers, snow blowers, tractors or similar devices operated during daytime hours.
- Noise generated by any construction or demolition equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in Section 4. Emergency construction or repair work by public utilities shall also be exempted.

- Noise created by refuse and solid waste collection, provided that the activity is conducted during hours provided for in the Town's Solid Waste Ordinance.
- Noise created by registered Motor Vehicles on a public way.
- Noise created by plows, trucks or other equipment used in the removal of snow.
- Noise from any aircraft operated in conformity with, or pursuant to, Federal law, Federal air regulations, and air traffic control instruction, including any aircraft emergency orders of air traffic control.
- Noise from trains operating in conformity with or pursuant to all applicable State and Federal laws and regulations.
- Events approved by the Board of Selectmen including but not limited to parades, special sporting events, public concerts, and fireworks displays.
- The use of Generators in Emergency Situations (temporary basis)
- Agriculture
- For good cause shown, after public hearing, the Board of Selectmen has the authority to alter noise levels in specific cases provided four (4) or more members of the Board of Selectmen so vote.

## 6. **DEFINITIONS**

The following definitions apply in the interpretation and enforcement of this Ordinance.

- **Decibel:** The practical unit of measurement for sound pressure level, abbreviated to dB. The abbreviated dB(A) shall refer to readings taken on the A-weighted scale.
- **Daytime Hours (not daylight hours):** The hours between 7:00 am and 9:00 pm on Monday through Thursday, the hours between 7:00 am and 11:00 pm on Friday and Saturday and the hours between 9:00 am and 9:00 pm on Sunday.
- **Noise Level:** The sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A).
- **Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- **Emergency Vehicle:** Any motor vehicle authorized by a town, county, state or federal authority to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.
- **Emergency Work:** Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure or imminent danger.
- **Equivalent continuous sound level (Leq):** The measure that accounts for the moment-to-moment-fluctuations in noise levels from all sources during the sampling time period.
- **Sound Pressure Level:** The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.
- **Motor Vehicle:** The term as defined in 22-A M.R.S.A., Section 101 (42), as may be amended from time to time.
- **Nighttime Hours:** All hours other than daytime hours as defined herein.

- **Person:** Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the State of other legal entity of any kind.
- **Premises:** Any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned or controlled by a person.
- **Sound Level Meter:** An instrument for the measurement of sound levels conforming to A.N.S.I. Type I and Type II meters.

## 7. **MEASUREMENT PROCEDURES**

For the purpose of determining noise levels as set forth in this Ordinance, the following guidelines shall be applicable:

- All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- Instruments used to determine sound level measurements must conform to the Standards of A.N.S.I. Type I and Type II meters
- The general steps listed below must be followed when preparing to take sound level measurements;
  1. The instrument manufacturer's specific instructions for the preparation and use of the instrument must be followed.
  2. The sound level meter must be calibrated before and after each set of measurements. The calibrator itself shall be recalibrated at least once every year.
  3. The sound level meter must be placed as specified by the manufacturer's instructions and at least four (4) feet above the surface of the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.
  4. All measurements shall be at the lot line of receiving property.
  5. Measurement period shall be fifteen (15) continuous minutes.

## 8. **MANNER OF ENFORCEMENT**

This ordinance shall be administered and enforced by the Maine State Police and/or the Code Enforcement Officer.

## 9. **VIOLATIONS, PENALTIES AND OTHER REMEDIES**

When the noise level standards set forth in Section 4 are exceeded after being sampled for fifteen (15) continuous minutes in a single day, shall constitute a violation of this Ordinance. For each such violation, the Town shall be entitled to a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Additionally, each violation of this Ordinance shall be deemed to be, and is hereby declared to be, a public nuisance for which the Town is entitled to injunctive relief issued by a court of competent jurisdiction. In any enforcement action, whether for penalties, injunctive relief, or both, the Town shall be entitled to an award of its costs of court, attorney's fees, sound consultation or expert fees, and any other costs incurred in enforcement of this Ordinance. Actions to enforce the provisions of this ordinance shall

be brought in the Maine District Court, in accordance with the procedures and requirements establish by Rule 80H of the Maine Rules of Civil Procedure.

10. **VALIDITY AND SEVERABILITY**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

11. **EFFECTIVE DATE; APPLICABILITY**

The effective date of this Ordinance shall be immediately upon passage by the Town meeting. Notwithstanding any other ordinance provision to the contrary, this Ordinance shall apply to all existing uses and properties on the date of passage.

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Adopted by the Town of Lebanon voters on July 14, 2020  
by a vote of YES: 585 NO: 492

A True Attest Copy

  
Town Clerk