

CHAPTER 85

NOISE

[HISTORY: Adopted by the Board of Selectmen (now Town Council) of the Town of Durham: Art. I, 11-2-1970; Art. II, 10-6-1986. Amended by the Town Council on 6-21-2010.]

Article I VEHICLE NOISE

85-1. Vehicle noise restricted.

No person shall operate any vehicle on any street so as to make any loud, unusual or other unnecessary noise as hereinafter defined.

85-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ANNOY - To disturb or irritate, especially by continued or repeated acts; to bother with unpleasant deeds; To do something to upset or anger someone; to be troublesome; A feeling of discomfort or vexation caused by what one dislikes;

DISTURB - the unsettling of proper order in a public space, or the unsettling of proper order heard from a private place, through one's actions. This can include creating loud noise by fighting or challenging to fight, disturbing others by loud and unreasonable noise, or using offensive words or insults likely to incite violence.

LOUD, UNUSUAL OR OTHER UNNECESSARY NOISE -- Includes any noise occasioned by any one (1) or more of the following actions of the operator of any vehicle:

- A. Misuse of power exceeding tire traction limits in acceleration, sometimes known as "laying down rubber" or "peeling rubber."
- B. Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency.
- C. Rapid acceleration by means of quick upshifting of transmission gears with either a clutch and manual transmission or an automatic transmission.
- D. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch and manual transmission or an automatic transmission.
- E. Racing of engines by manipulation of the accelerator, gas pedal, carburetor or gear selection, whether the vehicle is either in motion or standing still.

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F. The blowing of any horn except as a warning signal or the use of any other noisemaking device, whether the vehicle is either in motion or standing still.

STREET -- Includes a crosswalk, intersecting way or other public highway, all as defined by RSA 259:1, as amended.

VEHICLE -- Includes a bus, highway building equipment, motorcycle, motor truck, motor vehicle, semitrailer, sidecar, tractor, trailer or other vehicle, all as defined by RSA 259:1, as amended.

85-3. Violations and penalties.

Any person convicted of a violation of this Article shall be fined as provided in Chapter 1, Article II, of this Code.

Article II
NOISE USE DISTRICTS

85-4. Noise restricted.

In accordance with the concepts set forth below, it shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessarily loud noise or any noise which either annoys, disturbs, injures or is likely to endanger the comfort, repose, health, peace or safety of others within the town limits. For the purpose of this section, persons shall include the owner, tenant, or other person in control of a private residence who permits or allows guests to engage in loud or unreasonable noises that can be heard in a public or other private place or who fail to take the necessary steps and precautions to prevent guests or other persons on the property from engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other device which reproduces or amplifies sound.

85-5. Specific prohibitions.

A. Prohibited noise/time restrictions.

1. Between 10:00 p.m. and 6:00 a.m., created by loading, unloading, opening, closing or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters or similar objects.
2. Between 10:00 p.m. and 7:00 a.m. created by:
 - a. The operation or use of construction vehicles, to include but not be limited to bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front-end loaders and log skidders.

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- b. The operation or use of tools or construction equipment, to include but not be limited to cement mixers, hammers, staple or nail guns, power tools (i.e., saws, drills, grinders and sanders), chain saws, lawn mowers, electric hedge trimmers, lawn edgers and jackhammers.
 - c. The operation or use of agricultural equipment, to include but not be limited to tedders, balers and tractors.
3. Between 10:00 p.m. and 7:00 a.m. engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other device which reproduces or amplifies sound.
4. Evidence of a specific complaint or complainant is not necessary to establish a violation of this ordinance

85-6. Exemptions.

The following 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 S 85-7B(1) and (2), except during time periods of their prohibited use.
- G. Snowblowers and other types of private or commercial snow-removal operations.
- H. Parades and public gatherings for which the Town of Durham has issued a permit.
- I. 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.

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85-7. Application for special permit.

Application for a permit for relief from the noise level designated in this Article on the basis of undue hardship may be made to the Town of Durham. Any permit granted by the Town shall set forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement.

85-8. Violations and penalties.

Any person who violates the provisions of this Article shall be subject to a fine as provided in Chapter 1, Article II, of this Code.

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