

ORDINANCE #
TOWN OF DEERFIELD

AN ORDINANCE REGULATING NOISE
WITHIN THE TOWN OF DEERFIELD

- I. DECLARATION OF PURPOSE: The purpose of this Ordinance is to regulate the making, creation or maintenance of such excessive, unnecessary or unusually loud noises that, in their time, place and manner, adversely affect and are a detriment to the public health, comfort, safety and welfare of the residents of the Town of Deerfield.
- II. TITLE: This ordinance shall be known and may be cited as the “Noise Ordinance of the Town of Deerfield.”
- III. AUTHORITY: RSA 31:39, I (n)
- IV. DEFINITIONS:
 - A. Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition;
 - B. Continuous Sound: Any sound that exists, essentially without interruption, for a period of 10 minutes or more;
 - C. Demolition: Dismantling or intentional removal of structures, utilities, public or private right-of-way surfaces or similar property;
 - D. Engine Brake: An engine retarding component of a diesel engine that opens the exhaust valve during the engine’s compression stroke, resulting in the release of compressed air and associated noise from the cylinders into the exhaust system;
 - E. Impulse Noise: Any noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and decay;
 - F. Noise Disturbance: Any sound, whether a continuous sound or an impulse noise, which is a loud or unreasonable noise and which disturbs a reasonable person with normal sensitivities;
 - G. Owner/Lessee: Owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of the premises, device or an apparatus;
 - H. Person: Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof;
 - I. Power Tool: Any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling;

Ordinance #
Noise Ordinance

- J. Residential Property: Any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are occupied and used primarily for purposes other than human habitation;
 - K. Undue Hardship: A situation or circumstance in which it is unreasonable to require the applicant to conduct the regulated activity during the hours permitted under the ordinance;
 - L. Vehicle: Shall have the same meaning as in New Hampshire RSA 259:122.
- V. PROHIBITIONS:
- A. Noise/Time Restrictions: It shall be unlawful for any person to carry on the following activities in the Agricultural/ Residential zoning district if such activities create a noise disturbance:
 - 1. Between 10:00 p.m. and 7:00 a.m. the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, trashcans, dumpsters or similar objects.
 - 2. Between 10:00 p.m. and 7:00 a.m. Monday through Saturday and 10:00 p.m. and 8:00 a.m. Sunday:
 - a) The operation or use of heavy construction vehicles and equipment involved in construction, demolition, property maintenance or similar activity, including but not limited to, bulldozers, grader, dump trucks, backhoes, excavators, earthmoving equipment, front end loaders and log skidders;
 - b) The operation or use of tools, power tools, or construction equipment to include, but not limited to: cement mixers, hammers, staple or nail guns, power tools (i.e., saws, drills, grinders, sanders, chain saws, lawn mowers, electric hedge trimmers, lawn edgers, leaf blowers, and jack hammers), whether involved in construction, demolition, repair, maintenance, or similar activity; and
 - c) The operation or use of agricultural equipment to include, but not limited to tedders, balers, and tractors.
 - 3. Evidence of a specific complaint or complainant is not necessary to establish a violation of this ordinance.
 - 4. Exemptions: The following uses and activities shall be exempt from the foregoing noise/time restrictions:
 - 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;

Ordinance #
Noise Ordinance

- c) Noise resulting from emergency maintenance work or work that cannot be performed during the day due to mitigating factors such as traffic volume or facility use, as performed by the Town, the School District, the State, public utility companies or a private property owner in the event of a legitimate emergency;
 - d) Noise resulting from snow removal operations performed by the Town, State and other types of private or commercial snow removal operations;
 - e) Noise resulting from grounds keeping activities of a golf course;
 - f) Any other noise resulting from activities of temporary duration permitted by the law and for which a permit therefore has been granted by the Town; and
 - g) Any noise which is created in and audible only from within the Commercial/Industrial Zone.
5. Exceptions: An application for an exception for relief from the provisions of this ordinance based on undue hardship may be made to the Town Administrator. Any such exception granted by the Town Administrator shall set forth all conditions pertaining to the specified noise, and a reasonable time limit for its abatement.
- a) Any person who wants to conduct an activity within the applicable zoning district(s) during times other than allowed and who seeks relief from the provisions of this ordinance based on undue hardship, shall file a request, in writing, for an exception with the Town Administrator no less than five (5) days prior to the date for which the exception is sought. The request for an exception shall contain the following information:
 - a. The name, address, and telephone number of the person who seeks the permit;
 - b. The hours when, and the location where, such noise producing activity shall be conducted;
 - c. A description of the activity that will generate the noise;
 - d. Whether the sound producing activity shall be conducted for commercial or noncommercial purposes;
 - e. If the request is based on hardship, a description of the hardship involved; and
 - f. Any other information that the Town Administrator, Chief of Police, Fire Chief, Zoning Administrator or any other Town department head deems necessary.
 - b) Permit: Any exception approved by the Town Administrator shall be returned to the applicant within a reasonable period unless it was found that:

Ordinance #
Noise Ordinance

- a. The conditions of motor vehicle or pedestrian movement are such that the noise producing activity would constitute an unreasonable detriment to traffic or pedestrian safety; or
 - b. The Registration Statement fails to meet or reveals that the applicant would not be able to comply with the Standards of Issuance; or
 - c. The information contained in the Registration Statement is false or nonexistent in any material detail.
- c) Standards of Issuance:
- a. The noise producing activity will be in compliance with the provisions of all other applicable ordinances and regulations.
 - b. The noise producing activity will not create an undue hardship for an abutter or the general public.
- d) Appeal Procedure: Any Person aggrieved by a denial or issuance of a Permit shall have the right to file a request with the Town Administrator, in writing, that the Town Administrator reconsider the denial or issuance. The Town Administrator shall act upon the request within five business days of its receipt. The Town Administrator's decision on reconsideration may be appealed to the Board of Selectmen, in writing, which may reverse, affirm or modify in any regard the determination of the Town Administrator.
- e) Late Applications: The Town Administrator, where good cause is shown therefore, shall have the authority to approve any Registration Statement hereunder which is filed less than five (5) days before the date such noise producing activity is proposed to occur.
- f) Possession and Display of Permit: The Permit a Person receives shall be kept at all times, where it can be readily obtained and promptly shown to any police officer of the Town of Deerfield.
- B. Engine Breaks:
1. It shall be unlawful at all times (24 hours a day / 7 days a week) for the driver of any Vehicle to use or operate or cause to be used or operated any Engine Break on any street or road in the Town, except in an emergency.
 2. Any Fire Department vehicles responding to an emergency shall be exempt from this Section.
 3. Any person violating this section after having been issued a warning shall be fined \$100, and \$200 for any subsequent offense.
- C. Noise Created by or Emanating from a Motor Vehicle:

Ordinance #
Noise Ordinance

1. A person operating in or in control of a parked or moving motor vehicle shall not operate or permit the operation of an electronically amplified sound system in or on the motor vehicle so as to produce sound that is clearly audible more than fifty (50) feet from the motor vehicle except as otherwise authorized.
2. A person shall not operate a motor vehicle so as to make any loud, unusual, or unnecessary noise occasioned by any one or more of the following actions by the operator:
 - a. Misuse of power, exceeding tire traction limits in acceleration, sometimes known as “laying down rubber” or “peeling rubber,” or excessive acceleration where there is no emergency.
 - 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 or manual transmission or automatic transmission.
 - d. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch or 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.

VI. EXCLUSIONS: These requirements shall not apply where such matters are governed by State Law.

VII. PENALTIES FOR VIOLATION OF ORDINANCES: Unless otherwise stated, any person or unnatural person within the meaning of the Criminal Code, who violates an ordinance shall be guilty of a violation and upon conviction thereof, shall be penalized by a fine of not more than \$300 for the first violation, \$500 for the second violation and \$1,000 for third and subsequent violations thereafter. The owner of a property as so defined on which a noise disturbance occurs shall be held liable for such noise disturbance. Pursuant to RSA 502-A:11-a, the District Court shall have jurisdiction of the prosecution of any violation of the Town of Deerfield Ordinance. All fines collected shall be for the use of the Town. The enforcement authority may issue a summons and complaint along with a notice of fine pursuant to the procedures for pleas by mail set out in RSA 502-A:19-b.

VIII. SEVERABILITY: If any provision of this ordinance is held to be unconstitutional or otherwise invalidated by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Ordinance #
Noise Ordinance

- IX. EFFECTIVE DATE: The effective date of this ordinance shall be 30 days after passage by the Town Meeting.