

ORDINANCE # 33
TOWN OF HANOVER

ORDINANCE OF THE BOARD OF SELECTMEN

The Board of Selectmen of the Town of Hanover ordain as follows:

AN ORDINANCE REGULATING NOISE
WITHIN THE TOWN OF HANOVER

- 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 public health, comfort, safety and welfare of the residents of the Town of Hanover.

- II. TITLE: This ordinance shall be known and may be cited as the “Noise Ordinance of the Town of Hanover.”

- 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 rapid decay;
 - F. Institutional “I” Zoning District: That area of the Town of Hanover which is so defined and delineated in the Zoning Ordinance of the Town of Hanover and which is shown on the attached Zoning Map;
 - G. 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;
 - H. 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.

- I. 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.
- J. 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.
- K. 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 actually occupied and used primarily for purposes other than human habitation.
- L. 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.
- M. 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 within three hundred (300) feet of any residential property in the GR and SR zoning districts of the following activities if such activities create a noise disturbance that generates a complaint:
 - 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 10:00 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, graders, dump trucks, backhoes, 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, lawnmowers, 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. 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;
 - 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, Dartmouth College, or a private property owner in the event of a legitimate emergency;
 - d) Noise resulting from snow removal operations performed by the Town, the State, Dartmouth College, and other types of private or commercial snow removal operations;
 - e) Noise resulting from groundskeeping activities on the golf course;
 - f) Any other noise resulting from activities of a temporary duration permitted by the law and for which a license or permit therefore has been granted by the Town;
 - g) Any noise which is created in and audible only from within the Institutional zone.
4. Exceptions: An application for an exception for relief from the provisions of this ordinance on the basis of undue hardship may be made to the Town Manager. Any such exception granted by the Town Manager 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 districts during times other than allowed and who seeks relief from the provisions of this ordinance on the basis of undue hardship, shall file a request, in writing, for an exception with the Town Manager 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:
 - (1) The name, address and telephone number of the person who seeks the permit;
 - (2) The hours when, and the location where, such noise producing activity shall be conducted;
 - (3) A description of the activity that will generate the noise;
 - (4) Whether the sound producing activity shall be conducted for commercial or noncommercial purposes;

- (5) If the request is based on hardship, a description of the hardship involved;
 - (6) Any other information that the Town Manager, Chief of Police, Fire Chief, Zoning Administrator, Public Works Director or any other town department head deems necessary.
- b) Permit: Any exception approved by the Town Manager shall be returned to the applicant within a reasonable period of time unless it was found that:
- (1) 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
 - (2) The Registration Statement fails to meet or reveals that the applicant would not be able to comply with the Standards of Issuance; or
 - (3) The information contained in the Registration Statement is false or nonexistent in any material detail.
- c) Standards of Issuance:
- (1) The noise producing activity will be in compliance with the provisions of all other applicable ordinances and regulations.
 - (2) 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 Manager, in writing, that the Town Manager reconsider the denial or issuance. The Town Manager shall act upon the request immediately after its receipt. The Town Manager'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 Manager.
- e) Late Applications: The Town Manager, 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 Hanover.

B. Engine Brakes.

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 Brake in the following parts of Town, except in an emergency:
 - a) South Main Street, between the Lebanon City Line and Wheelock Street.
 - b) Lebanon Street, between S Main Street and Greensboro Road
 - c) East and West Wheelock Streets between Park Street and the Ledyard Bridge
 - d) North and South Park Streets, between Lebanon Street and Lyme Road
 - e) Lyme Road between Park Street and the top of Chieftain Hill
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.

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 \$1,000.00 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 Hanover Ordinances. 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.

IX. EFFECTIVE DATE: Having held a public hearing, the Board of Selectmen voted to adopt this Ordinance on the 14th day of December, 2009, which shall be the effective date hereof.

IN WITNESS WHEREOF, a majority of the Board of Selectmen have hereunder set their hands.

TOWN OF HANOVER
BOARD OF SELECTMEN



Brian F. Walsh, Chair



Katherine S. Connolly, Vice Chair



Judith A. Doherty, Secretary



Athos J. Rassias



Peter L. Christie

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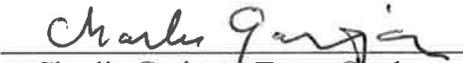
Date of Notice as to Posting and Publication: December 1, 2009 / December 4, 2009

Date of Public Hearing: December 14, 2009

Date of Adoption: December 14, 2009

Date of Notice of Adoption and Effective Date: December 4, 2009 / December 14, 2009

Date of Recording in the Town Records: June 17, 2013


Charlie Garipay, Town Clerk