

## **CHAPTER 171**

### **ORDINANCE REGULATING NOISE NUISANCE**

**[HISTORY: Adopted March 15, 2008 Town Meeting; Updated March 13, 2009 Town Meeting.] Pursuant to RSA 31:39, The Town of Pembroke hereby adopts the following ordinance:**

#### **§ 171-1 Purpose.**

It is declared to be the intent of the Town of Pembroke to promote an environment free from excessive noise which unnecessarily jeopardizes the health and welfare of the citizens of the Town of Pembroke and degrades the quality of life in this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise producing equipment which is not amendable to such controls yet is essential to the economy and quality of life of the community.

The purpose of this ordinance is to establish standards for the control of noise and noise disturbances in the Town of Pembroke by prohibiting specific activities during designated times and by setting maximum permissible sound levels within the confines of the Town.

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 annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the Town of Pembroke.

#### **§ 171-2 Definitions.**

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. PERSON – Any person, vehicle owner, firm, partnership, association, corporation, company or organization of any kind.
- B. CONSTRUCTION – Any site preparation, excavation, grading, assembly, erection, substantial repair or alteration of any building, structures or land, public or private, together with any associated scientific or engineering surveys shall constitute construction. The term “construction” shall

include the operation or the causing to be operated of any equipment used in the construction, repair, alteration, or demolition work on buildings, structures, streets, alleys or appurtenances thereto. Said equipment includes, but is not limited to, a pile driver, shovel, hammer, derrick, hoist, tractor or roller.

- C. EMERGENCY WORK – Shall mean any work performed to protect, maintain or restore safe and/or healthful conditions in the community, including but not limited to work performed by private or public utilities when restoring utility service.

### **§ 171-3 Prohibited Acts.**

- A. Between 10:00 PM and 6:00 AM on Sundays through Thursdays and between 12:00 AM and 6:00 AM on Fridays and Saturdays, it shall be unlawful to:

1. Operate or use construction vehicles to include but not be limited to bulldozers, graders, dump trucks, backhoes, earth moving equipment, front end loaders and log skidders.
2. Operate or use tools or construction equipment, to include but not be limited to: cement mixers, hammers, staple or nail guns, jackhammers; power tools such as saws, drills, grinders, sanders, chain saws; lawn mowers; electric hedger trimmers and lawn edgers.
3. Operate, play, or use any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device at such a volume that it is clearly audible at the property line of the property on which the device is being operated.
4. Discharge of firearms, fireworks, or cannons, except during hunting season where the discharge of a firearm for the purpose of hunting is defined in regulations set forth by the State of New Hampshire.

- B. Unnecessary noise from motor vehicles:

1. A person operating 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 in a public right-of-way or public space more than 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 up shifting 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 in motion or standing still.
3. A person shall not discharge into the open air the exhaust of any steam engine, stationary combustion engine, motorboat or motor vehicle except through a muffler or other device that effectively prevents loud or explosive noises from emanating therefore.
4. A person shall not operate any motor vehicle so out of repair, so loaded, or otherwise in such condition as to create loud and unnecessary grating, grinding, rattling, or other unusually loud noises.

#### **§ 171-4 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 the 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. Snow blowers and other types of private or commercial snow removal operations.
- F. Parades and public gatherings for which the town has issued a permit.
- G. 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.
- H. The un-amplified human voice.

#### **§ 171-5 Penalties.**

- A. Any person who violates any provision of this ordinance shall be guilty of a violation and subject to a penalty in the amount of \$100 for the first offense if an individual, \$250 for subsequent offenses if an individual, and \$500 for any other person for each violation.
- B. No person will be summonsed for a violation of Article III (A) (1) or Article III (A) (2) until he or she has first been issued a written warning by the Police Department.

#### **§ 171-6 Enforcement.**

This ordinance is enforceable by the Pembroke Police Department or the Pembroke Code Enforcement Officer, or their agents. The Chief of Police or Code Enforcement Officer may issue a written waiver to extend the hours of operation for a construction project, for a short period of time, when deemed necessary to protect the public health and safety due to impending weather conditions.

## **§ 171-7 Separability.**

Each separate provision of this ordinance shall be deemed independent of all other provisions herein. If any provision of this ordinance is declared to be invalid, all other provisions shall remain valid and enforceable.

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