

Noise Control Ordinance - Publ. Safety Ord., Article IX, Fairfield, ME This is presented as a sample only. It has not been reviewed by the Legal Services Department.

from Fairfield, Maine's Public Safety Ordinance,  
enacted August 1996

## ARTICLE IX

### NOISE CONTROL ORDINANCE

SECTION 9-100 SHORT TITLE: This Ordinance shall be known as the "Town of Fairfield Noise Control Ordinance."

SECTION 9-101 PURPOSE: This Ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life of the citizens of Fairfield through the reduction, control and prevention of excessive noise.

#### SECTION 9-102 DEFINITIONS:

A. Day-Time Hours: Shall mean the hours between 7:00 a.m. and 9:30 p.m., Monday through Saturday and the hours 9:00 a.m. through 9:30 p.m. on Sundays. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

B. Multi-Unit Structures: Shall mean any attached living units, including, but not limited to, apartments, condominiums, duplexes and multiplexes.

C. Night-Time Hours: Shall mean the hours between 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

D. Noise: Shall mean any sound, produced by any means. The term shall not be construed as having any connotations of pleasantness or unpleasantness.

E. Noise Source: Shall mean anything capable of producing noise; the thing from which noise emanates.

F. Persons: Shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political, administrative or legal entity of any kind.

G. Premises: Shall mean 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.

SECTION 9-103 NOISE PROHIBITED: It shall be unlawful for a person to produce or initiate, or to be the efficient cause of production of, a noise that is audible above background sounds at a distance of 75 feet or more from the noise source.

This Ordinance should be read in its entirety, as other prohibitions also apply. For example, Section 9-104 prohibits the production of noise during night-time hours in a unit of a multi-unit structure that is audible in another unit in that structure.

**SECTION 9-103.1 EXCLUSIONS:** This prohibition shall not apply to noise produced by or related to the following activities, so long as the noise, if only related to an activity, is a reasonably necessary adjunct to the activity.

A. Natural phenomena

B. Church bells ringing as part of any official church ceremony or service, tower clock bells ringing the hour during the day-time hours, or carillons, and bell or clarion ringing pursuant to 30-A MRSA Section 2091.

C. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation, except burglar or other tampering or intrusion alarms, including but not limited to vault alarms and motor vehicle alarms, that produce a sound that is not terminated within twenty (20) minutes after activation.

D. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.

E. Tools and equipment and processes used for or in domestic construction, repair, maintenance, improvement, and demolition, including but not limited to the power and hand tools and garden tractors, landowners and roto-tillers, when used or operated or performed during day-time hours.

F. Timber harvesting, including, but not limited to, the felling and removing of logs from the woods.

G. Commercial activities of construction, maintenance, repair, improvement, or demolition during day-time hours, provided the noise generated does not exceed limits that may be set from time to time by the U.S. Environmental Protection Agency or the Maine Department of Environmental Protection.

H. Agricultural animals, livestock, or fowl.

I. Refuse and solid waste collection, and collection of recyclable materials provided that the activity is conducted during day-time hours.

J. Any activity not prohibited by this Ordinance or by any other law, where the noise is not audible above background sounds beyond any lot boundary line of the premises upon which the noise source is located.

K. Any activity for which a permit is required by and under the Ordinance or other law, including but not limited to parades, sporting events, concerts, and fireworks displays, provided that all licenses or permits required by this Ordinance and/or any other law shall have been obtained in accordance with applicable law.

**SECTION 9-104 NOISE IN MULTI-UNIT STRUCTURES:** It shall be unlawful for a person to produce or initiate, or to be the efficient cause of production of noise in one unit of a multi-unit structure which is audible in another unit of that same multi-unit structure during night-time hours, exceptions being bone fide cries for help, infants crying, and other unintentional noises that cannot be

reasonably controlled.

**SECTION 9-105 SPECIFIC PROHIBITIONS:** Anything in Sections 9-104 and 9-105 of this Ordinance to the contrary notwithstanding, the following activities are prohibited:

A. **ANIMALS:** Keeping, owning, possessing or harboring any animal or bird which for a period of 10 minutes or intermittently for one-half hour or more, makes sounds at any time of day or night which is audible beyond the lot line of the premises upon which the animal or bird is situated: provided, however, that it shall not constitute a violation of this Ordinance if at the time a dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property on or upon which the dog is situated.

B. **RADIO:** Using, operating or playing, or permitted the use, operation or playing of any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the production, amplification, or reproduction of sound that is audible above background sounds at a distance of 75 feet or more from the noise source, and which is loud and unnecessary, and which disturbs the peace and quiet of others between the hours 9:30 p.m. and 7:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

C. **VEHICLES:** Using, operating, or revving up, any automobile, motorcycle or vehicle in such a manner as to create loud and unnecessary grating, grinding, rattling or any other noise that is audible above background sounds at a distance of 75 feet or more from the noise source, and which is loud and unnecessary, and which disturbs the peace and quiet of others between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

D. **VOICES:** Shouting or crying of peddlers, hawkers and vendors which unreasonably disturbs the peace and quiet of the neighborhood between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

E. **IDLING VEHICLES:** Idling of any engine or any standing motor vehicle with a weight in excess of 10,000 pounds Manufacturer's Gross Vehicle Weight (GVW) for a period in excess of ten consecutive (10) minutes between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time

at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time, when such vehicle is within a public way adjacent to a residential premises.

SECTION 9-106 PERMITS: This ordinance authorizes 2 kinds of noise permits, a Special Sound Permit and a Commercial Sound Permit, described below.

Applications for these permits must be submitted to the Chief of Police of the Fairfield Police Department on a form furnished by the Town of Fairfield.

A. Special Sound Permits. A Special Sound Permit is available to authorize the production or generation of sound that would otherwise be in violation of this Ordinance on an occasion that is not part of a regular business activity of the premises on which the sound will be produced or generated. The owner or operator or the manager of the premises shall apply for this permit at least forty-eight (48) hours before the hour the intended noise-producing activity will commence. The Chief of Police or his or her designee will have sole authority to grant or deny a Special Sound Permit, but the decision must be made within the following guidelines.

B. Guidelines.

1. No permits shall be issued for any of the specific prohibitions listed in Sec. 9-105 above except for Sec. 9-105-B.
2. The activity producing noise must be an event which occurs infrequently on the premises listed on the Permit. If the noise production is a routine occurrence, the producer of such noise or the person responsible for the production of such noise, must obtain a Commercial Sound Permit. (Sec. 9-106-E, *infra.*)
3. The applicant may not receive more than 2 Special Sound Permits for any particular premises in any twenty-eight (28) day period.
4. The Chief of Police or his/her designee must consider the character of the neighborhood in which the applicant's premises is located in deciding whether to grant or deny a permit.

C. If a permit is granted, the permittee must comply with the following terms. Failure to comply with the following terms shall be a violation of this Ordinance. After notice and a hearing a Special Sound Permit can be revoked by the Chief of Police for failure to comply with any of the terms or conditions of the Permit.

1. The only noises permitted are music or the human voice.
2. The permit shall be in effect for 1 day only, from 10:00 a.m. to 10:30 p.m. local time.
3. The noise generated shall not be audible above background sounds at a distance of 100 yards or more from the noise source, nor shall the noise be unreasonably loud within the sound area.
4. Noise shall not be produced within 100 yards of hospitals, schools, churches, nursing homes or business premises open to the public unless the permittee secures a consent in writing, and in advance, from the owner, lessee, operator or manager at the affected hospital, school, church,

nursing home or business premises open to the public. Copies of the consents must be filed together with the application for the Special Sound Permit.

The Chief of Police or his/her designee may determine whether all required consents have in fact been obtained.

D. Appeal. Applicants may appeal any denial of a Special Sound Permit to the Fairfield Town Council, and if the denial is not reversed, to the Superior Court in accordance with law and court rules.

E. Commercial Sound Permits. Any person who in the course of business intends to produce or be responsible for the production of noise in violation of this Ordinance more than twice in any twenty-eight (28) day period must apply to the Chief of Police or his/her designee for a Commercial Sound Permit. There shall be a \$50.00 application fee for this permit. After notice and a hearing the Chief of Police or his/her designee can revoke a Commercial Sound Permit for violating a term or condition of the Permit and no refund of the Permit application fee shall be due from the Town of Fairfield in the event of such revocation. Failure to comply with the following terms shall be a violation of this Ordinance.

1. Procedure. The Chief of Police or his/her designee shall conduct a public hearing on the application before issuance. The date, time and location of hearing shall be advertised once in a newspaper of general circulation in the Town of Fairfield at least 1 week, but not more than 4 weeks, before the hearing is held. The cost of this advertisement shall be prepaid by the applicant. The applicant will be responsible for placement of the notice upon approval of the Chief of Police or his/her designee. At the hearing all those in favor and all those opposed to the granting of the permit shall have an opportunity to voice their opinions. The hearing shall be an informal process. After the hearing, the Chief of Police or his/her designee shall grant or deny the permit, after applying the following guidelines.

2. No permits shall be issued for any of the specific prohibitions listed in Section 9-105.

3. The Chief of police shall address, in writing, the comments made at the hearing.

4. The applicant must operate a business at an established premises.

5. The Chief of Police or his/her designee must consider the character of the neighborhood in which the applicant's premises is located in deciding whether to grant or deny a permit.

F. If a permit is granted, the permittee must comply with the terms listed in section 9-106-3 above, except section 9-106-C, and must also comply with the following:

1. The permit shall be in effect for 1 year from the date of issue, and shall permit noise production between the hours of 10:00 a.m. and 11:00 p.m., local time, Sunday through Thursday, and 10:00 a.m. to 1:00 a.m. Friday and Saturday.

In addition, the following terms must be met:

2. The permittee must pay the Town a reasonable sum, to be agreed upon by the Town Manager, for additional police protection on occasions negotiated and agreed upon by the applicant and the Chief of Police and his/her designee at the time of application.

3. The permit is non-transferable. Furthermore, it cannot be transferred from one premises to another, even if both premises are owned by the same person.

G. Appeal. Applicants may appeal a denial of a Commercial Sound Permit to the Fairfield Town Council, and if the denial is not reversed, to the Superior Court in accordance with law and court rules.

H. Expiration. A Commercial Sound Permit expires at 12:00 midnight on the last day of its one-year term. A permittee may file a new application for a permit not earlier than thirty (30) days before such expiration or at any time after such expiration.

**SECTION 9-107 ENFORCEMENT:** This Ordinance shall be enforced by the Fairfield Police Department.

**SECTION 9-108 PENALTIES:**

A. Civil Penalties. Any person in violation of any of the provisions of this Ordinance or any term or condition of a permit issued under this Ordinance shall be subject to a civil penalty, and upon adjudication, thereof shall be fined in an amount not less than fifty dollars (\$50) nor more than two hundred and fifty dollars (\$250) for each separate violation. The municipality may be awarded attorney's fees and costs incurred in enforcing this Ordinance. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of fine shall be doubled for each day said violation continues, said fine not to exceed five hundred dollars (\$500) per day.

**SECTION 9-109 SEVERABILITY:** Any provisions of the Zoning Ordinance or the Land Use Ordinance of the Town of Fairfield which are more stringent than those set forth herein shall remain in force. If, for any reason, any word, clause, paragraph, or section of this Ordinance shall be held unconstitutional, this Ordinance shall not thereby be invalidated and the remainder of this Ordinance shall continue in effect.

**SECTION 9-110 EFFECTIVE DATE:** This Ordinance shall become effective upon adoption by the Town Council.

**SECTION 9-111 AMENDMENTS:** This Ordinance may be amended by vote of the Town Council.