

## **ARTICLE IV: NOISE CONTROL**

### **Section 3.401:**

It is found and declared that:

- A. The making and creation of excessive, unnecessary loud noises within the limits of the City of Portsmouth is a condition which has existed for some time and the extent and volume of such noises is increasing;
- B. The making, creation or maintenance of such excessive unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Portsmouth and;
- C. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of Portsmouth and its inhabitants.

### **Section 3.402:**

It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, within the limits of the City.

### **Section 3.403: NOISES PROHIBITED - UNNECESSARY NOISE STANDARD**

The following acts, among others, are declared to be loud disturbing and unnecessary noises in violation of this Ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, Signaling Devices, Etc.: The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason being held up.
- B. Radios, Phonographs, Etc.: The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machines or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at

a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

- C. Loud Speakers, Amplifiers for Advertising: The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is case upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- D. Yelling, Shouting, Etc.: Yelling, shouting, hooting, whistling, or singing on the public street, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
- E. Animals, Birds, Etc.: The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- F. Steam Whistles: The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.
- G. Exhausts: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boats, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- H. Defect in Vehicle or Load: The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- I. Loading, Unloading, Opening Boxes: The creation of a loud and excessive noise in connection with loading or unloading any vehicle or ship or the opening and destruction of bales, boxes, crates and containers. The loading or unloading of any sanitation vehicles in any district between the hours of midnight and 7:00 a.m. in such a manner as to be plainly audible in a residential district at a distance of 50 feet from such loading or unloading shall be prima facie evidence of a violation of this Section.
- J. Construction or Repairing of Buildings: The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.
- K. Schools, Courts, Churches, Hospitals: The creation of any excessive noise on streets adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- L. Hawkers and Peddlers: The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- M. Drums: The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

- N. Metal Rails, Pillars and Columns, Transportation Thereof: The transportation of rails, pillars, columns of iron, steel or other material over and along streets and other public places upon cars, trays, cars, trucks or in any other manner to loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- O. Street Railway Cars, Operation Thereof: The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a street railway car.
- P. Pile Drivers, Hammers, Etc.: The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- Q. Blowers: The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- R. Engine Compression Brakes: It shall be unlawful for the driver of any vehicle other than police or fire emergency vehicles to use, operate or cause to be used or operated, within the City of Portsmouth, any mechanical exhaust device designed to aid in the stopping or braking of said vehicle, in a manner so as to create excessive, loud, unusual or explosive noise from the vehicle. (Adopted 5/15/2006).

**Section 3.404: VIOLATION - MISDEMEANOR**

Any person violating any of the provisions of this Ordinance shall be fined in an amount not exceeding One Thousand (\$1000) Dollars (Amended 1-7-85). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

**Section 3.405: MANNER OF ENFORCEMENT**

Violations of this Ordinance shall be prosecuted in the same manner as other violations of the Ordinances of the City of Portsmouth. Complaints may be brought by the Portsmouth Police or the Building Inspector of the City of Portsmouth or his agent.

**Section 3.406: ADDITIONAL REMEDY - INJUNCTION**

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to the reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

**Section 3.407: SEPARABILITY**

It is the intention of the City Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein and it is further the intention of the City Council that if any provision of this Ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.