

# Town of Bethlehem

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## ***Town Ordinance 2021-***

### ***Noise Ordinance***

**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 Bethlehem.

**Authority:** In accordance with the authority conferred upon Selectmen of Towns by New Hampshire Revised Statutes Annotated Chapter 31 Section 39 I, II, and III; Chapter 31, Section 39-c I, II, III Powers to make Bylaws; Chapter 41 Section 11 Choice and Duties of Town Officers; and Chapter 47, Section 17, 17b, 18, 19, 20, and 21 Bylaws and Ordinances; the following Ordinance is hereby promulgated and adopted.

The following bylaws with reference to Noise Regulations; have been enacted by the Board of Selectmen in the Town of Bethlehem, New Hampshire pursuant to powers granted them in RSA 31:39, 41:11, and 47:17.

- I. **Noise Disturbances and Prohibited Time Restrictions:**
  - A. **General Provisions:** It shall be unlawful for any person to make, continue, or cause to be made or continued any loud and unnecessary or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the Town's limits. In addition, this prohibition shall include, but is not limited to, any such loud and unnecessary or unusual noises made between the hours of 10 p.m. and 7 a.m., seven days per week, unless such noise is exempt below.
- II. **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, 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, and other types of private or commercial snow removal operations.
- E. Businesses that normally produce loud noises during normal operations during normal business/operating hours.
- 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 of Bethlehem.

III. **Application for Noise Permit:** Application for an Exception for relief from the provisions of this ordinance on the basis of undue hardship may be made to the Select Board or their designee. Any such permit granted by the Board of Selectmen or their designee shall set forth all conditions pertaining to the specified noise, and a reasonable time limit for its abatement.

A. **Process:** Any Person who wants to conduct an activity within the Town of Bethlehem during times other than allowed and who seeks relief from the provisions of this ordinance on the basis of undue hardship, shall file a Noise Permit Application form, requesting a Permit from the Board of Selectmen or their designee. The application must be filed no less than five (5) days prior to the date for which the exception is sought. The Noise Permit Application shall contain the following information:

1. The name, address and telephone number of the person who seeks the permit.
2. The date and time 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 permit is based on hardship, a description of the hardship involved.
6. Any other information that the Board of Selectmen, Chief of Police, Fire Chief, Zoning Administrator, Public Works Director, or any other town department head deems necessary.

B. **Noise Permit:** The noise permit allows you to have a temporary exception to the Noise Ordinance. It will allow you to have noise above the noise ordinance outside the allowable time frame. An approved certified copy of the Permit 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.
2. The Registration Statement fails to meet or reveals that the applicant would not be able to comply with the Standards of Issuance.

3. The information contained in the Registration Statement is false or nonexistent in any material detail.
4. You cannot receive a noise permit if you have been cited with a noise violation within the past year.

**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 Board of Selectmen, in writing, that the Select Board reconsider the denial or issuance. The Board of Selectmen shall act upon the request at the next scheduled Select Board meeting.

E. **Late Applications:** The Board of Selectmen, 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 investigating the complaint.

A. **Enforcement and Penalties for violation of ordinances:** The Bethlehem Police Department shall investigate all complaints, record their findings, and take appropriate action, at the Officer's discretion. The Police do not need to verify the intensity of the sound to cite you with a violation of the noise ordinance, all they need is a complaint. Unless otherwise stated, any person or unnatural person within the meaning of the Criminal Code, who violates this ordinance shall be guilty of a violation and upon conviction thereof, shall be penalized by a fine of not more than \$1000.00. The Owner of a property as so defined on which a noise disturbance occurs shall be held liable for such noise disturbance. The Owner is defined as follows: 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.

IV.

A. **Court Proceedings:** Pursuant to RSA 502-A:11-a, the 2<sup>nd</sup> Circuit District Division Littleton Court shall have jurisdiction of the prosecution of any violation of the Town of Bethlehem's 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.

B. **Civil Forfeiture:** A person may choose to pay a civil forfeiture up to \$100.00 to the Town Clerk within 48 hours of the time notice of violation is proposed and shall there by waive the right to be heard in Circuit Court and shall not be prosecuted for

that offense. For each subsequent offense by the same person, the amount of civil forfeiture shall up to \$250.00. However, civil forfeiture may not be paid after three (3) offenses in twelve months, rather Circuit Court proceedings and fines shall dispose of their case.

- V. **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.

**Effective date:** Having held a public hearing, the Board of Selectmen voted to adopt this Ordinance on the 1<sup>st</sup> day of February, 2021 which shall be the effective date hereof.

**This Ordinance shall be effective:** February 1<sup>st</sup>, 2021

**Town of Bethlehem  
By its Board of Selectmen**

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