

Town of Hanover

Ordinance Regulating Unreasonable Noise on Certain Public Ways

Section 1. Purpose and Authority. The purpose of this "Ordinance Regulating Unreasonable Noise on Certain Public Ways" (hereinafter, the "Ordinance") is to prevent loud and disturbing noise on a public way to the detriment of the health, welfare and safety of the Hanover citizens which disturbs the peace and tranquility of residents of Hanover's citizens at times normally recognized as hours for slumber, rest and repose. Accordingly, it is the policy of the Town of Hanover to prohibit unnecessary, excessive, annoying and distracting noise on public rights-of way within the Town of Hanover.

Section 2. Definitions. For the purpose of this article, the following words and phrases shall have the following meanings:

1. "Town" means the Town of Hanover, Maine.
2. "Motorcycle" means an unenclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor-scooters and mini-bikes.
3. "Operation" means actual control by a person.
4. "Public right-of-way" means any street, road way, alley, sidewalk, or other area deeded or dedicated for public travel or transportation purposes, other than U.S. Route 2.
5. "Straight pipe exhaust system" means any straight through muffler that does not contain baffles, including, but not limited to, glass packs, steel packs and straight pipes.
6. "Truck" shall mean any motor vehicle used for the conveyance of person and/or property having a gross vehicle weight of 26,001 pounds or more.
7. "Vehicle" shall be as defined in the Maine Motor Vehicle Statutes Title 29-A: (1) Means a device for conveyance of persons or property on a way. "Vehicle" does not include conveyances propelled or drawn by human power or used exclusively on tracks or an electric personal assistive mobility devise as

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defined in this section, and; (2) Any vehicle defined as a "trailer, semi-trailer or tow dolly" according to the Maine Motor Vehicle Statutes (Title 29-A)

Section 3. Creation of Certain Noise upon Public Right-of-Way Prohibited.

No person, while occupying any public right-of-way in the Town, other than on U.S. Route 2, shall operate any motorcycle equipped with a straight exhaust system or a truck as defined in this ordinance that creates noise during the hours of 8 p.m. to 6 a.m.

The prohibition of this section shall include, but not be limited to, the following activity or conduct:

- (a) Rapid throttle advance and/or revving of an internal combustion engine resulting in increased noise from the engine.
- (b) Operations of motor vehicle, as defined in 29-A M.R.S. § 101 (42), including but not limited to a motorcycle, with a straight pipe exhaust system, an exhaust system with a cutout, bypass or similar device or an exhaust system that does not meet the requirements of Maine law, including, but not limited to, 29-A M.R.S. § 1912.
- (c) Operation of commercial vehicles.

Section 4. Exemptions. The provisions of this section shall not apply to the following activity or conduct:

1. Expression or communication protected by the United States Constitution, including the First Amendment, or the Maine Constitution.
2. Any activity or conduct the regulation of which has been preempted by Maine Statute.
3. Any noise created by a governmental entity in the performance of an official duty.
4. Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
5. When the road is posted, usually late February to early May, trucks may travel on public rights of ways as allowed by the posting.
6. The sounding of any signaling device permitted by law.

Section 5. Engine Brake. A person operating a motor vehicle in the Town shall not use an un-muffled engine brake to slow the vehicle except in an emergency situation for the purpose of avoiding a collision with a vehicle, object, person or animal. As used in this section, "engine brake" means a device that retards the motion of a motor vehicle by using the compression of the engine of the motor vehicle and "un-muffled" means that the engine brake is not equipped with a muffler which complies with the requirements of 29-A M.R.S. § 1912. This section does not apply to emergency responses vehicles operated by a governmental entity or licensed provider of emergency medical services.

Section 6. Administration and Enforcement. This Ordinance shall be administered and may be enforced by the Selectmen or their duly authorized designee, including the road commissioner, code enforcement officer or law enforcement officer.

Section 7. Penalties. Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of its reasonable attorney fees and costs. Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

Section 8. Amendments. This Ordinance may be amended by the Selectmen at any properly noticed meeting.

Section 9. Severability; Effective Date. In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the Selectmen at any properly noticed meeting.