

TOWN OF MOOERS
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MOOERS, NEW YORK 12958
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RESOLUTION TO ADOPT ORDINANCE 1-2017, TOWN OF MOOERS NOISE ORDINANCE

Whereas; The Town of Mooers does not currently have a noise ordinance in place and there have been numerous complaints from residents regarding the excessive and unreasonable noise and;

Whereas; Local law enforcement is unable to address complaints due to lack of a noise ordinance and;

Whereas; The town board of the Town of Mooers has found that it would benefit the health and safety of the town and support the objective of being a quiet and peaceful, family oriented community to adopt such a noise ordinance providing for mandatory enforcement of standards.

Therefore Be It Resolved; that ordinance 1-2017, Town of Mooers Noise Ordinance is adopted and shall be effective ten (10) days after publication.

Be It Further Resolved;

Section 1. TITLE

This Noise Ordinance #1 of the year 2017 shall be known as the Town of Mooers Noise Ordinance.

Section 2. PURPOSE

The purpose of this ordinance is to preserve the public health, peace, welfare, and good order by suppressing the making of, or creation of unnecessary, unnatural or unusually loud noises which are prolonged, unusual, and unnatural in their time, place, and use and which are detrimental to the environment.

Section 3. UNREASONABLE EXCESSIVE NOISE

A. It shall be a violation of the ORDINANCE to intentionally make unreasonable noise or sounds that annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of another person.

B. The following factors may be considered in determining whether the noise is unreasonable and excessive at the time and under the circumstances it is made:

1. The volume, intensity and duration of the noise
2. Whether the noise is normally associated with the permitted uses of property in the zoning district where the noise is created
3. The ambient or background noise in the area where noise is created.
4. The time of day the noise occurs
5. Whether the noise occurs at a time when residents in the vicinity are likely to be sleeping, which for purposes of this ordinance shall be presumed to be between the hours of 10 o'clock pm and 6 o'clock am on the weekdays of Sunday through Thursday, and the hours of 11 o'clock pm and 6 o'clock am on the weekdays of Friday and Saturday.

6. Whether the noise occurs in the vicinity of a school, courthouse, house of worship, public library, hospital, or nursing home and disturbs person using or residing in such facilities.
7. Whether the person making or responsible for the noise might reasonably expect that the noise would be plainly audible to a person outside the boundaries of the property or the dwelling where the noise is created.
8. Whether the person making the noise, or the owner or occupant of the property or dwelling where the noise occurs, has received prior complaints or notice concerning noise from the property or dwelling and the response to same.
9. Whether there are reasonable measures the person making the noise could undertake to reduce the noise.

SECTION 4. CERTAIN ACTS DECLARED TO BE VIOLATION

It shall be a violation of this section to:

- A. Operate, play or permit the operation or playing of any radio, television, tape recorder, sound amplifier, musical instrument or similar device which produce, reproduces or amplifies sound.
 1. In a residential district if the sound is plainly audible at the boundary of the property on which the sound is produced.
 2. In a dwelling unit in a multiple family dwelling at a volume where the sound is plainly audible in other units in the building.
 3. In a commercial district if the sound is plainly audible at a distance of fifty (50) feet from the boundary of the property on which the sound is produced.
 4. In a motor vehicle on a public right-of-way or public space in such a manner that sound is plainly audible at a distance of fifty (50) feet from the vehicle.
- B. Yell, shout, hoot, whistle or sing on any public place within residential districts of the Town of Mooers so as to annoy or disturb the peace, quiet, comfort or repose of a reasonable person of normal sensitivity.
- C. Operate machinery or equipment in a residential dwelling or garage that makes noise that is plainly audible at the boundary of the property or, in an adjoining dwelling unit of a multi-family dwelling, except that, noise made in connection with construction repairs or improvements to the dwelling unit which are made between the hours of 6 o'clock am and 9 o'clock pm shall not constitute a violation of this section
- D. Operate any tools or equipment used in construction, drilling, excavation, or demolition work between the hours of 9 o'clock pm and 6 o'clock am, except emergency work.
- E. Operate a motor vehicle which is not equipped with a muffler or other device which effectively prevents the discharge of loud or explosive noises.
- F. Operate a motor vehicle on public streets in such a manner that the tires of the vehicle emit unnecessary noise.
- G. Noise caused by a domestic animal's barking, howling, whining, screeching, that continues more than fifteen minutes and which is plainly audible at the boundary of the property, or in an adjoining dwelling unit in a multi-family dwelling.
- H. Noise caused by loading or unloading equipment, material, or supplies for deliveries to properties within residential districts between the hours of 9 o'clock pm and 6 o'clock am that is plainly audible at the boundary of an adjoining residential property.

SECTION 5. EXEMPTIONS

This section shall not apply to noise emitted by or related to :

- A. Church bells, horns and sirens of trains and authorized emergency vehicles
- B. Parades, concerts or other community gatherings
- C. Non-commercial public speaking and public assembly activities conducted in any public place
- D. The use of domestic power tools for property repair or improvements, lawnmowers and other lawn maintenance tools between the hours of 6 o'clock am and 9 o'clock pm.
- E. The use of snow removal equipment at any time for snow removal purposes.
- F. The use of vehicle for agricultural purposes at any time.
- G. Weddings or graduation parties held at a private residence.

Section 6. PENALTIES FOR OFFENSES

Any person violating an provision of this Section shall have committed an offense and shall be subject to a fine not to exceed two hundred and fifty dollars (\$250.00). Person committing a subsequent offense within twelve (12) months of the date of a prior conviction shall be subject to a fine not to exceed five hundred (\$500.00). A separate offense shall be deemed committed on each day during which a violation occurs or continues.

SECTION 7. MANNER OF ENFORCEMENT

This section may be enforced by any New York State Police Officer, Clinton County Sheriff's Deputy, or any Code Enforcement Officer employed by the Town of Mooers.

Motion: Councilperson Myatt

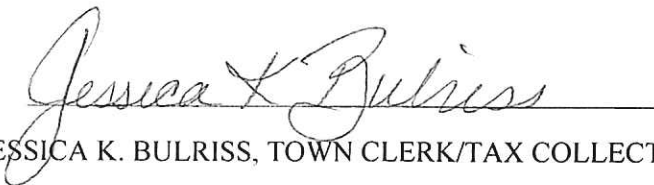
Seconded by: Supervisor Menard

Discussion: Yes

The result of a Roll Call was 4 AYES (Supervisor Menard, Councilperson LaValley, Councilperson Perras and, Councilperson Myatt) and 0 NOES.

Therefore; Supervisor Menard declared **Resolution # 22-2017** adopted.

DATED: October 9, 2017


JESSICA K. BULRISS, TOWN CLERK/TAX COLLECTOR

Resolution #22-2017