

1 **This Regulation shall be known as the**
2 **Montague Board of Health Noise Control Regulation**
3

4 **Adopted by board of health:** _____

5 **SECTION ONE**

6 **It is the judgment of the Town of Montague that excessive noise from clubs and bars, idling trains,**
7 **motor vehicles, including motorcycles, and recreational vehicles, including all terrain vehicles (ATVs)**
8 **and so called dirt bike motorcycles, and other sources of noise not listed, can interfere with the public**
9 **health, safety, welfare and the peace and quiet of the inhabitants of the town, and therefore in order**
10 **to promote public health, safety, welfare and the peace and quiet of the inhabitants and honoring**
11 **Article XLIX of the Constitution of the Commonwealth of Massachusetts the Town of Montague board**
12 **of Board of Health adopts the following regulation:**

- 13 **A. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable**
14 **due to intermittence, beat frequency, shrillness or volume. Failure to so muffle noise will be a**
15 **violation of these regulations.**
- 16 **B. The maximum permissible sound pressure level of any continuous, regular or frequent source of**
17 **sound produced by any activity regulated by this regulation shall be established by the time**
18 **period and type of land use district listed below. Sound pressure levels (using a sound level meter)**
19 **may be measured at a lot line from where noise is emanating at a height of at least four feet or**
20 **higher above the ground surface.**
- 21 **C. Exceeding sound levels in Table 1 at a lot line shall be a violation of this regulation.**
- 22 **D. If there is no sound level meter available, assessment of the noise shall be as follows: if the noise is**
23 **plainly audible at a distance of 200 feet from the building, or structure or premises or shelter or**
24 **vehicle or boat or conveyance or lot line thereof, in which or from which the noise is produced, the**
25 **fact that the noise is plainly audible at said distance of 200 feet shall constitute prima facie**
26 **evidence of a violation of this regulation.**
- 27 **E. The decibel levels specified in Table 1 may be exceeded by 10 decibels for a single period, no**
28 **longer than 15 minutes, in any one day. Otherwise, the decibel standards specified may be**
29 **exceeded by special permit only.**

30 **TABLE 1 (Noise levels exceeding those shown in Table 1 are a violation of this regulation)**
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	Sound Pressure Level Limits Measured in Decibels			
	6:59 a.m. -9:59 p.m.		10:00 p.m. -7:00 a.m.	
	dB(A)	dB(C)	dB(A)	dB(C)
*Business Districts <i>Check mixed use</i>	70	82	60	72
Other Districts	65	77	60	72
Industrial (see other)				
Agricultural (see exemptions)				

dB(A) weight is a decibel measurement that excludes very low frequencies. dB(A) weight measures sounds the human ear hears best.

dB(C) weight is a decibel measurement that includes very low frequencies; those not heard by the human ear.

Therefore, if the dB(C) measurement is much higher than the dB(A) measurement that sound energy is concentrated in the very low frequencies.

Using both dB(A) and dB(C) measurements can ensure reliability of different frequencies of sound.

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*** Shall mean: Limited Business Districts, General Business Districts, Central Business Districts and Unrestricted Districts, as defined in the Zoning By – Laws of the Town of Montague as amended from time to time.**

F. Both dB(A) and dB(C) scales may be used, and a violation of either standard shall be deemed to constitute a violation of this regulation.

G. Sound level meters used to assess decibel levels shall meet the standards of the American National Standards Institute (ANSI SI.41993) "American Standard Specification for General Purpose Sound Level Meters", as amended from time to time. The instrument shall be set to the appropriate weight response scale(s) and the meter to the slow response. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Method for the Physical Measurement of Sound", as amended from time to time.

H. No person shall engage in, cause, or permit to be engaged in activities that cause excessive noise on a site abutting any residential use between the hours of 9:59 p.m. one day and 6:59 a.m. of the following day.

Definitions

Excessive Noise shall mean any of the following:

1. Any noise produced by a person or the operation of a device, machine, or vehicle, plainly audible to a person of normal hearing at a distance of two hundred (200) or more feet from the source of the noise if the noise source is in a public way or place; or for noise from a source not on a public way or public place; any noise plainly audible to a person of normal hearing at a distance of two hundred (200) or more feet from any property line of the property from which the noise is generated.

2. Excepting that sound from motor vehicles as defined by Massachusetts General Laws, Chapter 90, §1, and following, shall be governed by the other specific provisions within this regulation, and excepting that any general distance standards herein shall be superseded by any specific distance

58 provisions for specific activities provided herein.

59 3. Any specific additional definition of excessive noise as provided herein.

60 **Decibel:** Measurement of the intensity of sound. The scale runs from the faintest sound the human
61 ear can detect, which labeled 0 dB to over 180 dB, the noise at a rocket pad during launch.

62 **Decibels** are measured logarithmically which means that each increase of 10 decibels is 10 times
63 the lower figure. This means that 20 decibels is 10 times the intensity of 10 decibels and 30 decibels
64 is 100 times the intensity of 10 decibel (10 X 10 = 100).

65 **Prima Facie:** at first view, on its face: not requiring further support to establish existence,
66 validity, credibility, etc.

67 **Plainly audible:** shall mean any sound that can be detected by a person of normal hearing
68 abilities, using his or her unaided hearing faculties. An enforcement officer need not determine
69 exact words of speech or amplified music; the title of a specific song, or specific words of a song.
70 The detection of audible bass or other components of music or noise is sufficient to constitute
71 plainly audible sound.

72 **Sound level meter:** technical instrument used to assess decibel levels. All sound level meters used
73 shall meet the standards of the American National Standards Institute (ANSI S1.401961)
74 "*American Standard Specification for General Purpose Sound Level Meter,*" as amended from time
75 to time. The instrument shall be set to the appropriate weight response scales and the meter to the
76 slow response.

77 Exemptions

78 The following uses and activities shall be exempt from the noise regulations:

79 In addition to specific exemptions provided in certain subsections, the following exemptions shall
80 apply generally:

81 1. Sound from law enforcement vehicles, personnel and activities.

82 2. Sound from emergency vehicles, personnel and activities, hospitals, state and municipal
83 maintenance and repair activities, any activities of the armed forces.

84 3. Sound from anyone who is a participant in a duly licensed parade, band, orchestra or similar
85 musical event. Sound from customary activities in the parks, playgrounds, playing fields, or
86 public buildings. Use of any electronic sound amplification device for special events requires
87 specific authorization as specified below.

88 4. Sound from assemblies and special events with amplified sound, and sound trucks on public
89 and private property may reasonably exceed the standards herein, and unless exempted from
90 permitting by law, only in accordance with and upon the issuance of a permit by the appropriate

91 licensing authority for each occasion and each location. Permitted events may not exceed sound
92 level limits or hours limits specified in the permit. Events which already require license by any
93 town board may have this requirement incorporated within that license application. Any fees
94 associated with the application shall be minimal, so as only to cover cost of administration.
95 Multiple or recurring events or a program series held on a seasonal basis may be covered by one
96 application.

97 **5. Sound from moving trains, boats, and agricultural equipment in properly zoned and on**
98 **properly permitted farms. Sound from aircraft landings, takeoffs, taxi, and flight noise. Sound**
99 **from permitted fireworks displays, permitted shooting ranges and lawful hunting.**

100 **6. Any temporary noise generated by activities deemed to be essential to the public health, safety,**
101 **welfare, or interest by the Board of Board of Health, Police or Fire Chief, Building Commissioner**
102 **and Building Inspectors, or Superintendent of the Department of Public Works.**

103 **7. Sound from bells, chimes, or carillons occurring between the hours of 8:00 a.m. and 9:05 p.m,**
104 **and during special events.**

105 **8. Sound from motor vehicles and trucks over 6,000 pounds gross vehicle weight. Said vehicles are**
106 **still required to comply with MGL Chapter 90 Section 16 requiring a properly functioning and**
107 **effective muffler. Sound from travel on U.S. Interstate highways. Unnecessary and/or excessive**
108 **sound from engine compression brake devices, (so called *Jake Brakes*) are not exempted in this**
109 **regulation.**

110 **9. The hour's restrictions herein shall not apply to use of snow blowers, snow plows, and other**
111 **snow removal equipment during or after a snowfall. The use of power equipment necessary for**
112 **emergency repairs or debris removal due to severe weather is also exempted.**

113 **10. The activities of licensed street musicians and performers shall be performed, controlled,**
114 **conducted and if necessary muted in such a way as to be for the listening of those passing by in a**
115 **limited area so as to minimize the noise impact on involuntary listeners at a distance, the standard**
116 **shall be that any performance that is plainly audible from two hundred (200) or more feet shall be**
117 **prohibited and shall be a violation of this regulation.**

118 **All such permitted activity is allowed only between the hours of 10:00 a.m. and 9:00 p.m. Monday**
119 **thru Thursday, between 10:00 a.m. and 10:00 p.m. Friday and Saturday, and between noon and**
120 **9:00 p.m. Sunday.**

121 **11. Noises created by construction and maintenance activities between 6:59 a.m. and 9:59 p.m.**

122 **12. The noises of safety signals, warning devices and emergency pressure relief valves and any**

123 other emergency activity.

124 **SECTION TWO**

125 **A. No person shall operate a motor vehicle or recreational vehicle, nor shall an owner of**
126 **such motor vehicle or recreational vehicle allow it to be operated, except emergency vehicles,**
127 **police vehicles and fire department and fire patrol apparatus, unless such motor vehicle or**
128 **recreational vehicle is equipped with a muffler to prevent excessive or unnecessary noise, the**
129 **muffler must be in good working order and in constant operation. Mufflers shall also comply with**
130 **the minimum standards for construction performance as the Registry of Motor Vehicles of the**
131 **Commonwealth of Massachusetts may prescribe, as amended from time to time.**

132 **B. No person shall use a muffler cutout or bypass.**

133 **C. No person shall operate a motor vehicle or recreational vehicle which motor vehicle or**
134 **recreational vehicle is equipped:**

135 **1) with a muffler from which the baffle plates, screens or other original internal parts have been**
136 **removed and not replaced, or**

137 **2) with an exhaust system which has been modified in a manner which will amplify or increase**
138 **the noise emitted by the exhaust.**

139 **D. No person, operating a motor vehicle or recreational vehicle, shall sound a bell, horn or**
140 **other mechanical or electronic device to make a harsh, objectionable and unreasonable noise. Nor,**
141 **shall any person operate a motor vehicle or recreational vehicle in a manner so as to create a**
142 **harsh, objectionable and unreasonable noise. Harsh, objectionable and unreasonable noise, as**
143 **used in this regulation, shall mean any noise, whether singular or collective created, which**
144 **constitutes disturbance of the peace or disorderly conduct under *M. G.L., Chapter 272 § 5* or**
145 **constitutes a violation of *M.G.L. Chapter 90 § 16* or *Chapter 90B § 24*, as amended from time to**
146 **time; or which is repetitive or continuous in nature.**

147 **E. No person shall operate a recreational vehicle in a manner that the noise from the**
148 **recreational vehicle, either singularly or collectively, causes harsh, objectionable and**
149 **unreasonable noise at the premises or the property line.**

150 **F. If a landowner knowingly, wantonly or negligently permits his/her land to be used by**
151 **recreational vehicles in a manner that the noise from the recreational vehicles, either singularly or**
152 **collectively, cause harsh, objectionable and unreasonable noise at the premises or the boundary or**
153 **property line of adjoining properties, then the landowner or the person in lawful custody of the**
154 **property shall be deemed responsible for the violation, except where a governmental entity has**
155 **lawful control or custody of the property.**

157 **Other**

158 **Industrial noise is regulated by 310 CMR 7.10 [Code of Massachusetts Regulations], as amended**
159 **from time to time.**

160 **Penalties**

161 **A first violation is punishable by a fine of up to \$50.00. A second violation within a twelve month**
162 **period shall be punishable by a fine of up to \$100.00. A further violation within a twelve month**
163 **period shall be punishable by a fine of up to \$200.00 and may result in loss of the entertainment**
164 **license and/or the loss of other permits or licenses issued by the town of Montague.**

165 **Enforcement**

166 **The Police Department shall enforce this regulation concerning motor vehicles, bars and**
167 **nightclubs, and disturbing the peace *M. G.L., Chapter 272 § 53, M.G.L. Chapter 90 § 16, Chapter***
168 ***90B § 24.* The Department of Environmental Protection, the Police Department, the Board of**
169 **Health and/or the Building Department may enforce these regulations regarding industrial and**
170 **residential noise.**

171 **The Regulation may be enforced by non-criminal disposition as specified in *M G.L. Chapter 40 §***
172 ***21D.***

173 **Severability**

174 **If any part or subsection of this regulation shall be held to be invalid by a court of competent**
175 **jurisdiction, then such part or subsection shall be considered separately and apart from the**
176 **remaining parts, provisions or subsections of this regulation, which shall remain in full force and**
177 **effect.**

178 **Adopted by the Montague Board of Health on _____, 2016 by**

179 _____
Albert Cummings, Chair

180 _____
Christopher Boutwell, Member

181 _____
Michael Nelson, Member

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183 **This regulation shall be in full effect on _____, 2016**