

Southborough Noise Bylaw Draft V6

for public forum discussion on 2/24/22

SECTION 1: SCOPE

The citizens of Southborough have a right to and should be ensured an environment free from excessive sound. This bylaw is enacted to minimize excessive sound which may jeopardize the health and welfare of its citizens or degrade their quality of life.

SECTION 2: STANDARDS

Contracted Work Noise Standards (noise generated by paid work)

1. Noise associated with Contracted Work is allowed between 7:00 AM and 7:00 PM on weekdays and 8:00 AM and 6:00 PM Saturdays.
2. Contracted Work shall not be allowed on Sundays or legal holidays.

Homeowner Work Noise Standards

Noise associated with Homeowner Work is allowed between 7:00 AM and 8:00 PM on weekdays, 8:00 AM and 9:00 PM on Saturdays and between the hours of 8:00 AM and 9:00 PM on Sundays and Legal Holidays.

Exterior Noise Standards

Unless further defined by standards within this bylaw, it shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes an unreasonable disturbance beyond the property line that would disturb the peace.

SECTION 3: BUSINESS AND INDUSTRIAL NOISE

Business and industrial noise is to be regulated by Noise control Regulation 310 CMR 7.10(1) which states that no person or persons owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, suffer, allow, or permit unnecessary emissions from said source of sound that may cause noise. 310 CMR 7.10(1) is subject to the enforcement provisions specified in 310 CMR 7.52.

Additionally adopted by Division of Air Quality Control Policy DAQC Policy 90-001, Southborough Board of Health will lead enforcement with assistance from the Police Department, and use MassDEP noise Policy to determine compliance of certain stationary noise sources 310 (CMR 7.10). After receiving a complaint, if the Southborough Board of Health (SBOH) determines that excessive noise is being generated, the SBOH can request the commercial source conduct a noise study to determine compliance and shall include a Return to Compliance Plan for any violations of DAQC Policy 90-001.

SECTION 4: PROHIBITED ACTIVITIES

The following activities are prohibited if they create noise:

1. Yelling, shouting, hooting, whistling, singing, playing music or the making of any loud noises so as to annoy or disturb the reasonable quiet, comfort or repose of identified persons is prohibited between the hours of 11:00 p.m. and 7:00 a.m.
2. Truck idling- No person shall operate an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds GVW (gross vehicle weight) for a period in excess of five (5) minutes when such vehicle is parked on a residential premises or on a public way abutting a

residential premises, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads nor to the operation of vehicles carrying products which must be kept refrigerated.

3. Motor vehicles operating within the town of Southborough must adhere MGL c. 90, § 16 which addresses harsh, objectionable or unreasonable noises.
4. No person shall emit or allow the creation of noise audible beyond the property line while loading or unloading trucks between the hours of 9 P.M. and 7 A.M. unless otherwise permitted.
5. No trash collection or dumpster collection shall take place in any area designated as, or directly abutting a residential zone between the hours of 9 P.M. and 7 A.M.
6. Any establishment granted a license for entertainment that is amplified by microphone, amplifier, or the like will be subject to this Bylaw. The entertainment should not be plainly audible beyond the property boundaries of the establishment.
7. No establishment granted a liquor license shall not permit crowd noise to be audible beyond the premises between the hours of 9 P.M. and 7 A.M.
8. **(For public forum input)**
From June 16 through September 14 and December 16 through March 14 only one gas-powered leaf blower is allowed to be in use at one time for a property up to 2 acres of land; a property over 2 acres of land can have a maximum of two gas-powered leaf blowers in use at one time.
9. Unreasonably loud and disruptive noise for a duration of more than 20 minutes intermittently, defined as an average of two vocalizations or more per minute in that period, emitted by an animal. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal.

SECTION 5: EXEMPTIONS

Noise limits in this regulation shall not apply to noise emitted by or related to any of the following:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities, specifically including, but not limited to any vehicle, device or equipment in the performance of emergency work.
2. Emergency activities including but not limited to: storm cleanup, power outages, snow removal, and use of generators provided such equipment be operated with a working muffler and/or a sound reduction device while in use.
3. Unamplified, non-commercial public speaking and public assembly activities as guaranteed by State and Federal constitutions and as conducted at conversational voice levels on any public property or public right-of-way if such sound is not plainly audible beyond one hundred fifty (150) feet or does not infringe the legitimate right of others.
4. Any bell or chime from any school or church and any device used in conjunction with places of religious worship.
5. Parades, public gatherings, or events for which appropriate permits or licenses have been issued or which are constitutionally protected.
6. Necessary excavation in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the Commonwealth of Massachusetts.
7. Farming equipment or farming activity as defined by MGL c. 128, § 1A.

- To be reviewed by legal counsel to if we need this, eliminate if not.
8. Any activity to the extent the regulation thereof has been preempted by State or Federal laws or regulations.

SECTION 6: VIOLATIONS AND PENALTIES

Any person who violates any provision of this chapter, if convicted, shall be fined:

\$50 for the first offense

\$100 for the second offense within 365 days of first offense.

\$300 for each succeeding offense within 365 days of first offense;

provided that an Enforcement Official shall have the option to issue a warning instead of a fine for violations if, in the Enforcement Official's reasonable judgment and sole discretion, a warning is appropriate under the circumstances. Each day of violation of any provision of this chapter, whether such violation is continuous or intermittent, shall be construed as a separate and succeeding offense.

SECTION 7: ENFORCEMENT

1. The Police Department and Board of Health shall be charged with the enforcement of the provisions of this bylaw. The Board of Health, in compliance with MGL c. 21A, § 8, shall assist in the enforcement of this bylaw.
2. All Town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this bylaw.
3. All Town departments and agencies shall comply with Federal, State and local laws and regulations and the provisions and intent of this bylaw respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.
4. Temporary exceptions to this bylaw will be handled by the Selectboard. The Selectboard shall establish appropriate procedures for processing applications, including such hearing(s) as the Selectboard deems appropriate. The Selectboard may require notification of the activity to all abutters within three hundred (300) feet of the exception location.

SECTION 8: DEFINITIONS More definitions to be added

Business and Industrial Noise: Sound emanating from the following zones: Industrial Districts, Industrial Park Districts, Research, Scientific and Professional Districts, Village Business Districts, Downtown District, Highway Business Districts, Wireless Communication Service Districts, as identified on the Zoning Map of the Town of Southborough, Massachusetts, and as defined in the Zoning Bylaws of the Town of Southborough, Massachusetts.

Contractors: Paid work which generates noise to include but not limited to: renovation, landscaping, property maintenance.

Enforcement Official: A duly designated police officer or Board of Health employee shall be an "Enforcement Official".

Homeowners: unpaid work which generates noise to include but not limited to: renovation, landscaping, property maintenance.

Leaf blower: Portable, handheld or backpack style power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, moving, removing, dispersing or redistributing leaves, dust, dirt, grass clippings, cuttings and trimmings from trees and shrubs or any other type of litter or debris.

Legal holiday: shall mean any United States federally approved day.

Quiet hours: The times outside of work hours.

SECTION 9: SEVERABILITY [Keep if needed after legal review, strike if not required]

A. If any provision or portion of a provision of this chapter is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

B. All Town bylaws or parts of Town bylaws, which are inconsistent with any provisions of this chapter, are hereby repealed as to the extent of such inconsistencies.

Color Key

Highlights in teal are for legal review.

Highlights in yellow are for further committee review

Addendum for further discussion:

Construction Noise Standards [Purpose- for all buildable lots to follow the planning board permit hours during construction]:

Construction activities are allowed between the hours of 7 A.M. and 6 P.M. Monday through Friday, and between the hours of 8 A.M and 2 P.M. on Saturday. No construction activities shall take place on Sundays or state or federal holidays.

The provisions of this section do not apply:

To work carried out by the Town or its contractors; or

To work carried out by an individual homeowner on their own property; or

For emergencies as determined by the Police or Fire Department personnel.

Definition: Construction shall mean any site or building preparation including but not limited to: delivery or pick up of construction equipment or building supplies, earth removal, grading, assembly, erection, substantial repair, alteration or similar action, including demolition, for or of private streets, structures, utilities or similar non-public property. Construction noise shall be that noise generated by manual or mechanical activities associated with construction.

Or add this to Contractor Work Standards as a #3

ANR (Approval Not Required) Lots are further restricted to M-F 7am-6pm and Saturday 8am-2pm.

or subject to the same noise restrictions as standards for construction by the Southborough Planning Board.