

TOWN OF CENTER HARBOR NEW HAMPSHIRE

DISORDERLY ACTIONS ORDINANCE

February 15, 2017

I. POLICY STATEMENT

It is declared to be the intent of the Town of Center Harbor to promote an environment free from excessive noise which unnecessarily jeopardizes the health and welfare of the citizens of Center Harbor and degrades the quality of life in this community, without unduly prohibiting, limiting or otherwise regulating certain actions and the function to certain noise producing equipment which is not amenable to such controls yet is essential to the economy and quality of life of the community. The purpose of this Section is to establish standards for the control of noise and certain disturbances in the Town by prohibiting specific activities during designated times and by setting maximum permissible sound levels within the Town as follows. This Section is not intended to be used against victims of reported incidents of domestic violence:

II. DEFINITIONS

For the purposes of this Section, the following words and phrases shall have meanings respectively ascribed to them by this Section:

Intra-Property Real Property Division: shall mean the ceilings, walls, floors, doors and windows of any duplex, multi-family or condominium dwelling or structure which separate the real property leased or owned by one person from that owned or leased by another person.

Lawful Order:

1. a command issued to any person for the purpose of preventing said person from committing any offense when the officer has reasonable grounds to believe that said person is engaged in a course of conduct which makes his commission of such an offense imminent;

2. a command issued to any person to stop him/her from continuing to commit any offense when the officer has reasonable grounds to believe that said person is presently engaged in conduct which constitutes any such offense.

Person: any individual, association, partnership, or corporation, including, any officer, employee, department, agency, or instrumentality of a state or any political subdivision of a state.

Public Right-of-Way: any street, avenue, boulevard, highway, sidewalk, or alley or similar place, which is owned or controlled by, a governmental entity

Public Place: any place to which the public, or a substantial group has access. The term includes, but is not limited to, public ways, sidewalks, schools and the lobbies of hallways of apartment building, hotels or motels.

Public Space: any real property or structure thereon, which is owned or controlled by a governmental entity.

Real Property Boundary: any imaginary line along the ground surface, and its extension, which separates the real property owned by one person from that owned by another person.

Noise Disturbance: making loud or unreasonable noises in a private place or a public place which could be heard in a public place or other private place which would disturb a person of average sensibilities, create a breach of the peace, public inconvenience, annoyance or alarm.

III. DISORDERLY ACTIONS

A. A person is guilty of Disorderly Actions at any hour of the day if:

1. He knowingly or purposely creates a condition which, is hazardous to himself or another in a public place by any action which serves no legitimate purpose, or;
2. He/she:
 - a. Engages in fighting or violent, tumultuous or threatening behavior in a public place; or
 - b. Directs at another person, in a public place, obscene, derisive or offensive words which are likely to provoke a violent reaction on the part of any ordinary person; or
 - c. Obstructs vehicular or pedestrian traffic on any public street or sidewalk or the entrance to any public building; or
 - d. Engages in conduct in a public place which substantially interferes with a criminal investigation, a firefighting operation to which RSA 154:17 is applicable, the provision of emergency medical treatment, or the provision of other services when traffic or pedestrian management is required; or
 - e. Knowingly refuses to comply with a lawful order of a peace officer to move from any public place;

f. Dumps, discards, deposits, throws or leaves or causes or permits the dumping, discarding, depositing, throwing or leaving of Litter on any Public place.

g. Possesses, carries, transports or otherwise has under his/her control any intoxicating liquor, within the limits of or upon any way, Public Place, public building or grounds of any public building, except in its original container and with the seal unbroken.

h. Exposes his/her genitals or buttocks in a location where exposure is visible to another in a Public Place, or if any female exposes her breasts for any purpose other than to breast feed that person's child;

i. Urinates or defecates in a location where exposure is visible to another in a Public Place

3. He/she purposely causes, or allows to be caused, a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

a. Making, or allowing to be made, loud or unreasonable noises in a public place, or in a private place which can be heard in a public place, or other private places, which would disturb a person of average sensibilities, to include but not limited to the following:

(1) the use, playing or operation of any radio, television, phonograph, stereo, drum, musical instrument, sound amplified or similar device which amplifies sound; or

(2) the use or display of fireworks except as authorized elsewhere herein;

b. Disrupting the orderly conduct of business in any public or private facility; or

c. Disrupting any lawful assembly or meeting of people, without lawful authority.

d. Operating or permitting the operation or use of any electronically amplified sound system while operating a moving or in control of a parked motor vehicle so as to produce sound that is clearly audible in a public right-of-way or public space more than fifty (50) feet from the motor vehicle, except as otherwise authorized.

e. Operating any motor vehicle so as to make any loud, unusual, or unnecessary noise occasioned by any one or more of the following actions:

(1) MISUSE OF POWER –exceeding tire traction limits in acceleration, sometimes, known as “laying rubber,” or “peeling rubber”, or excessive acceleration, where there is no emergency;

(2) MISUSE OF BRAKING POWER – exceeding tire traction limits in deceleration where there is no emergency.

(3) RAPID ACCELERATION – by means of quick up- shifting of transmission gears with either clutch or manual transmission, or automatic transmission.

(4) RAPID DECELERATION – by means of quick downshifting of transmission gears with either clutch or manual transmission or automatic transmission

(5) RACING OF ENGINE – by manipulation of the accelerator, gas pedal, carburetor, or gear selection, whether the motor vehicle is in motion or stationary

4. Noise Disturbance Time Restriction Prohibitions.

It shall be unlawful to cause a noise disturbance as defined here,

a. Between **the hours of 10:00 PM and 6:00 AM** – created by:

(1) loading, unloading, opening, closing or otherwise handling boxes, crates, containers, building material, trash cans, dumpsters or similar objects.

(2) the operation or use of agricultural equipment to include, but not limited to tedders, bailers and tractors.

b. Between **10:00 PM and 7:00 AM (Monday through Saturday) and 10:00 PM and 8:00 AM (Sunday)** – created by:

(1) the operation, idling, or use of construction vehicles to include, but not limited to bulldozers, graders, dump trucks, backhoes, earth moving equipment, front end loaders and log skidders on the job site;

(2) the operation or use of tools, machinery, or construction equipment to include, but not limited to, cement mixers, hammers, staple or nail guns, power tools (i.e. saws, drills, grinders, sanders) chainsaws, lawnmowers, electric hedge trimmers, lawn-edger's and jackhammers;

c. **LEGALLY ALLOWED FIREWORKS** displays are allowed no earlier than noon and no later than 10:00 PM with the following exceptions: 4th of July and New Year's Eve the permitted time is extended until 12:30 AM.

5. "Disorderly Actions" shall not include the directly related actions of a victim of a reported incident of domestic violence.

B. EXEMPTIONS:

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

- 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, training exercises and maintenance.
- c. Noises resulting from emergency maintenance work as performed by the Town, State or public utility companies, including snow removal operations.
- d. Municipal maintenance work where the abutters to the work site have been given prior notice of the project.
- e. Any other noise resulting from activities of a temporary duration permitted by law or for which a license or permit therefore has been granted by the Town which specifically references a temporary exemption from part or all of the ordinance.
- f. Snow blowers and other types of private or commercial snow removal operations.
- e. Parades and public gatherings for which the Town has issued a permit.
- f. Bells, chimes or carillons, while being used for religious purposes or in conjunction with religious services and those bells, chimes or carillons that are presently install and in use for any other purpose.
- g. The unamplified human voice, except where otherwise prohibited by provisions of this Section.

C. **FINES:** Disorderly Actions is a violation, punishable by a fine of up to \$300 for a first offense, \$600 for a second offense and up to \$1000 for any subsequent offense.

IV. TEMPORARY AUTHORIZATION

The Board of Selectmen is hereby authorized to suspend this ordinance or any specific section for a period not exceeding seven (7) days to persons or organizations wishing to exceed those limits provided for herein, based on a demonstration as follows:

1. Activity which is sought to be engaged in, is in furtherance of a substantial public interest or benefit, and will not be inconsistent with the statement of purpose
2. Activity sought to, be engaged, in is necessary in order to avoid undue hardship and will not be inconsistent with the statement of purpose.

IV. SEVERABILITY

If any provisions of this Section or the application of such provisions to any person or circumstances shall be held invalid, the validity of the remainder of this section and applicability of such provisions to other persons or circumstances shall not be affected thereby.