

ORDINANCE

Article 46 – As Amended 2013

Unnecessary Noise

§ 1 - Findings and Purpose

The Winthrop Town Council finds that controlling excessive noise as provided herein is necessary to promote the health, welfare, and safety of the citizens of the Town of Winthrop. It is the purpose of this Ordinance to prevent any person from making, continuing, or causing noise that unreasonably interferes with the comfort, health, or safety of others within the Town of Winthrop.

§ 2 - Prohibition

- A. It shall be unlawful for any person in a public place to intentionally or recklessly cause annoyance to others by intentionally making loud and unreasonable noises after having been ordered by a law enforcement officer to cease the noise or similar such noises within the last six months.
- B. It shall be unlawful for any person in a private place to make loud and unreasonable noise after having been ordered by a law enforcement officer to cease the noise or similar such noise within the past six months that can be heard by another person who is in a public place or in another private place.
- C. For the purposes of this section, the term “noise” shall include, but is not limited to:
 - i. sound created by radios or other electronic or mechanical devices capable of amplifying or projecting ambient noise, including such devices operated within motor vehicles;
 - ii. sound created in connection with loading and unloading commercial vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - iii. sound created from construction activities between the hours of 10:00 p.m. and 6:00 a.m.;
 - iv. sound created from timber harvesting activities between the hours of 10:00 p.m. and 6:00 a.m.;
 - v. sound created by recreational vehicles, including all-terrain vehicles, snowmobiles, motorbikes, watercraft, and other such vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - vi. sound created by a dynamic braking device or any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in the excessive, loud, unusual or explosive noise from such vehicle between the hours of 10:00 p.m. and 6:00 a.m. in the following locations:
 - a. Rte 133 between the intersections of Rte. 133 and Squire Court, to the intersection of Rte. 133 and Summer Street.
 - b. Rte. 202 between the intersections of Rte. 202 and Main Street to the intersection of Rte. 202 and Royal Street.

c. Rte. 202 between the intersections of Rte. 202 and Little Cobbossee Ave., to the intersection of Rte. 202 and Island Park Road

It shall be an affirmative defense that the use of such device(s) was used in an emergency situation to avoid imminent danger to the safety of a person or property as determined by the police officer.

- vii. sound created by a motor vehicle operated on any public or private way which results in excessive, loud or unusual noise as the result of the tires of said vehicle spinning on dry pavement, loud engine noise, or as the result of cutting out or modifying the exhaust system from its original design.
- viii. sound created by a loud report such as from fireworks or from a gunshot or explosive, between the hours of 10:00 p.m. and 6:00 a.m. unless otherwise exempted by State law or the provisions in the fireworks ordinance.

§ 3 - Exceptions

The following are exempt from the provisions of § 2:

- A. Federal, state, and local governmental activities, whether conducted by the governmental agency or by a private contractor acting on the government agency's behalf, including, but not limited to, activities of police, fire, rescue, schools, and public works;
- B. Activities of utility agencies, including, but not limited to, vehicles and activities for the provision of water, electricity, telephone service, and sewer service; and
- C. Public assemblies, parades, performances or athletic events for which a permit is required and has been issued by the Town of Winthrop. Any such noise upon the issuance of such permit shall cease at the time as indicated on the permit.

§ 4 - Violations & Penalties

- A. Any member of the Winthrop Police Department is authorized to enforce this Chapter upon complaint or upon the officer's own observation of a violation in progress.
- B. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of this chapter commits a civil violation. The owner of a business which is involved in a violation of this chapter commits a civil violation.
- C. Any person who violates this Chapter shall, upon conviction, be fined a civil penalty of not less than \$50 and not more than \$250 for each separate violation. If the Town is the prevailing party to an enforcement action, it shall be entitled to attorney's fees and associated costs unless extraordinary circumstances make such an award unjust.

§ 5 - Definitions

As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

- A. “Public place” means a place to which the public at large or a substantial group has access, including but not limited to:
 - i. Public ways; public way means any public highway or sidewalk, private way laid out under authority of statute, way dedicated to public use, way upon which the public has a right of access or has access as invitees or licensees, or way under the control of park commissioners or a body having like powers;
 - ii. Schools and government-owned custodial facilities; and
 - iii. The lobbies, hallways, lavatories, toilets and basement portions of apartment houses, motels, public buildings and transportation terminals.
- B. “Private place” means any place that is not a public place.

1st Reading 12/11/2012

2nd Reading 2/4/2013 as revised

Adopted as Amended: 3/6/2013