

1/13/03

Ordinance No. 421-0.
Noise

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421-1. DEFINITIONS

For the purpose of this ordinance, the following definitions shall be applicable.

PERSON- An individual, natural person, company, partnership, voluntary association, society, club, firm, corporation, business trust, organization, or any other group acting as a unit, with a manager, lessee, agent, partner, servant, member, director, officer or employee of any of them, including an executor, administrator, trustee, receiver or other representative according to law.

TOWN- The Town of Blades in Sussex County, Delaware.

VEHICLE- Every device upon which any person or property is or may be transported or drawn on a public or private thoroughfare, or is situated on a public or private lot, and is propelled by a motor, excluding devices moved by human power.

SOUND SYSTEM- A machine or device for the purpose of producing, reproducing or amplifying sound, including but not limited to radios, tape and CD players, phonographs, musical instruments, loudspeakers, and public address systems.

OCCUPANT- Any person(s) occupying or present on a premises.

PREMISES- A commercial or private establishment, to include but not limited to, a dwelling unit, apartment or commercial lodging room, marina and similar type waterway, together with the lands and ways, if any, under the control of the person(s) in possession.

NOISE- Sounds or vibrations emanating from a single or multiple sources. Noise includes vibrations of audible and sub-audible frequencies that can be heard or sensed by a reasonable person of normal hearing sensitivities, including but not limited to the base sound from amplified music, without limitations.

NOISE DISTURBANCE- Any sound which...

-) Annoys or disturbs a reasonable person of normal sensitivities; or
-) Is created by human voice, including but not limited to yelling, shouting, hooting, whistling, or singing at any time so as to annoy and disturb a reasonable person of normal sensitivities.

421-2. LOUD NOISE PROHIBITED

It shall be unlawful within the limits of the town, for any person to make, create or continue or cause to be made, created or continued any loud, unnecessary or unusual noise which either annoys, disturbs or injures a reasonable person(s) of normal sensitivities or endangers the comfort, repose, health, peace, safety or welfare of the public within the town limits.

It has been further determined, any person(s) in lawful possession allowing their property to be used by another person, who after notice of noise disturbance by said user, allows, permits, or fails to take affirmative action to prevent repeated violations, shall be deemed to be promoting the use of a commercial establishment or dwelling unit for disorderly or other disruptive conduct proscribed by this ordinance. This is to include the structure, and the lands and ways, if any.

421-3. SPECIFIC ACTS PROHIBITED

-) Any sound system day or night, operated in such a way so as to annoy or disturb the quiet, comfort or repose of any person in the same or other structure, or on the same or other property. It may not be operated in such a manner that is louder than reasonably necessary for convenient hearing by the person(s) who are in the room, vehicle, chamber, or outdoor area.
-) The operation of a machine, vehicle, or device in such a manner as to be plainly audible or unreasonably loud to a reasonable person(s) of normal sensitivities at a distance greater than 50 feet from the device if located outside a building; or 50 feet from the building if the device is located inside of it.
-) To operate a sound system in a motor vehicle or on a bicycle at an excessive noise level.
-) To operate a motor vehicle which causes excessive noise levels as a result of a defective or modified exhaust system or unnecessary engine revving.
-) Yelling, shouting, or singing at such volume as to be plainly and disturbingly audible to the human ear outside said premises, lands and ways.
-) The blowing of any horn, whistle or signal device, except as a danger signal, for an unreasonable and unnecessary period of time.
-) Making any offensive, obscene, coarse or profane utterance to another person(s), especially if provoking a loud and/or disorderly response.
-) The use of firearms or explosives or similar devices.
-) Use of trucks with exhaust breaking devices (Jake Breaks), not to include emergency vehicles.

421-4. NOISE SUPPRESSION DEVICES

No person(s) shall cause, suffer, or allow or permit the removal, disconnection or disabling of any noise suppression device or system which has been installed on any noise source device.

421-5. EXCEPTIONS

All types of emergency operations.

All types of municipal & utilities' equipment operating on a per need service basis.

Any activities where a waiver has been granted by the Town with defined stipulations.

Church bells, chimes, and carillons used for religious or holiday purposes.

The following actions are permitted between the hours of 6:00 AM and 9:00 PM.

-) Loading Operations
-) Construction
-) Refuse/Compacting Vehicles
-) Power Equipment
-) Emergency Signal Device Testing
-) Yard & Lawn Maintenance Equipment

421-6. INSPECTIONS

-) Police and/or code enforcers are directed to make inspections in response to complaints about an alleged violation.
-) They have authority with the occupant / owner's consent to enter and inspect all premises to help in determining if a noise violation is / has taken place.
-) If owner/occupant fails to allow or refuses free access for inspection, after showing that a probable cause exists, investigating official(s) may petition and obtain an order from a court authorizing access.

421-7. COMPLIANCE

Upon good cause by the owner or responsible party of any noise source, police and/or code enforcers may grant an exemption from penalty after issuance of a warning. They may also allow sufficient time if needed, not to exceed 7 days, for modifications to achieve compliance. However, satisfactory progress toward compliance must be shown.

421-8. ANIMALS (DOGS)

No person(s) shall keep any dog which, by causing frequent or long continued noise, shall disturb the quiet, comfort or repose of the neighborhood to such an extent as to constitute a nuisance or noise violation. Noise includes but is not limited to barking, howling, whines and yelps. Such dogs are declared to be detrimental to the public health and general welfare of property owners in the town, while also affecting general property values.

Following a complaint, if finding after inspection by police and/or code enforcers that a dog is creating a noise disturbance, a certified letter will be sent to the animal's owner stating the complaint, the need for compliance within seven (7) days, and penalties for non-compliance. This is considered to be the Warning phase as set forth in Violations & Penalties of the Noise Ordinance.

If the owner fails to alleviate the nuisance, the Town is authorized to proceed with the rest of the Penalty statute as outlined in the noise ordinance.

In the case of an owner / user property, if after the First Offense, with an owner being made aware of the user's violation, if the problem continues, the owner and user may both be subject to penalty for the Second and any subsequent Offenses.

The imposition of any penalty shall not excuse the violation nor permit it to continue.

421-9. VIOLATION & PENALTY

Any violation of the provisions of this ordinance shall be considered a misdemeanor and upon conviction shall be punished as follows together with court costs.

) First Offense...Written Warning

) Second Offense...Fifty (\$50.00) Dollar Fine

) Third Offense...One Hundred (\$ 100.00) Dollar Fine

) Fourth or any subsequent Offenses Two Hundred (\$200.00) Dollar Fine for each Offense and / or imprisonment for a period not to exceed thirty (30) days for each Offense.

At any time if warranted, the Blades Police may seize the instrument used in violating this noise ordinance.

In the case of an owner / user property, if after the First Offense, with an owner being made aware of the user's violation, if the problem continues, the owner and user may both be subject to penalty for the Second and any subsequent Offenses. Landlords will be given written notification of any noise violations incurred by their tenants.

)) The imposition of any penalty shall not excuse the violation nor permit it to continue.

)) Nothing in this penalty impairs the right of any person(s) to damages or other relief on account of injuries to persons or property. They may continue with any action or proceedings to recover as such.

421-10. STATEMENT

In addition to any remedy set forth in this noise ordinance, and because the purpose of this article is to safeguard and protect the public health and its property, safety and general welfare, the Town is hereby authorized to bring an action in any court of competent jurisdiction to enjoin any violation of any provision of this ordinance.

Should any section, subsection, sentence, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, such decisions shall not affect the validity of this ordinance in its entirety or of any part other than so declared to be invalid.

In any situation where a provision of this ordinance is found to be in conflict with any other Code of the Town of Blades, Delaware, the more stringent standard shall prevail.

This ordinance supercedes any previous article regarding noise disturbances.

TOWN OF BLADES

Office of the Mayor and Council
20 West Fourth Street
Blades, Delaware 19973

NOISE ORDINANCE

Adopted this date, 1/13/03 2003,

1/13/03
B. J. Hardin, Mayor

Russell Joseph
Vice-Mayor Russell Joseph

Joseph McCabe
Councilman Joseph McCabe

David Ruff
Councilman David Ruff

Wayne Chaffinch
Councilman Wayne Chaffinch

Julie A. Chelton
Julie A. Chelton, Admin.

Don Trice
Councilman Don Trice

ATTEST JULIE A. CHELTON
NOTARY PUBLIC
STATE OF DELAWARE
COMMISSION EXPIRES FEB. 9, 2004

(SEAL)