

Ordinance _____

An ordinance repealing Clallam County Code, Chapter 15.30, Public Disturbance, and the underlying Ordinance 396, 1990 and replacing with a new Chapter titled Public Disturbance Noises

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .010, Public disturbance noises, is created to read as follows:

It is unlawful for any person to cause, or for any person in possession of real or personal property to allow to originate from such property, a public disturbance noise, provided that owners or possessors of real property shall not be responsible for public disturbance noises created by trespassers. Public disturbance noise means any noise, sound or signal which unreasonably disturbs the comfort, peace, or repose of another person or persons. The following sounds are declared to be public disturbance noises for the purposes of this Chapter, provided that the following enumeration of acts and noises are not to be construed as excluding other acts and noises which offend the public peace:

(1) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.

(2) The creation of frequent, repetitive, or continuous sounds in connection with the starting, operating, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine, including hobby vehicles and aircraft, within a rural or residential area so as to unreasonably disturb or interfere with the peace, comfort and repose of an owner or possessor of nearby real property; provided that this subsection shall not apply to the operation of lawn mowers, garden tools, composters, agricultural machinery, chainsaws, or other power equipment used for temporary projects for building, repair or ground maintenance unless occurring between the hours of 10 p.m. and 6 a.m.

(3) The creation of frequent, repetitive, or continuous sounds or electronically broadcast signals which emanate from any building, structure, apartment, or condominium, or grounds of such structures which unreasonably interferes with the peace, comfort and repose of owners or possessors of nearby real property, such as sounds from musical instruments, audio sound systems, citizens band radio, ham radio and similar apparatus, band sessions or social gatherings.

(4) Noise from portable or motor vehicle audio equipment, such as a tape player, radio, or compact disc player, while in park, residential, rural, or commercial areas, or any area where residences, schools, human service facilities, or commercial establishments are in obvious proximity to the source of the sound, and where the volume of such audio equipment is such that it can be clearly heard by a person of normal hearing at a distance of 50-feet or more from the source of the sound; provided, however, that this section shall not apply to persons operating portable audio equipment within a public park pursuant to an event sanctioned by a responsible authority under valid permit or license.

(5) Yelling, shouting, or whistling, particularly between the hours of 10 p.m. and 6 a.m., so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of nearby real property.

Section 2. Section .020, Exempt sounds, is created to read as follows:

The following sounds are exempt from this Chapter:

- (1) Sounds originating from aircraft in flight and sounds that originate at airports and are directly related to flight operations.
- (2) Sounds created by safety and protective devices, if noise suppression would defeat the safety release intent of the device.
- (3) Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety, or welfare of the community.
- (4) Sounds created by the lawful discharge of firearms.
- (5) Sounds originating from forest harvesting and silviculture activity and from commercial agriculture.
- (6) Sounds relating to temporary projects for building, repair, or ground maintenance, including but not limited to sounds from construction equipment, power tools, hammering, and the like, between the hours of 6 a.m. to 10 p.m.
- (7) Sounds originating from lawful pickets, marches, parades, rallies, and other public events.
- (8) Sounds originating from lawful events at parks, schools, or other public property between the hours of 9 a.m. and 11 p.m. on Fridays and Saturdays and between 9 a.m. and 10 p.m. on other days of the week.
- (9) Sounds created by auxiliary equipment on motor vehicles used for highway maintenance.
- (10) Sounds created by off-highway vehicles while being lawfully used in officially designated all-terrain vehicle parks.
- (11) Sounds created by the lawful discharge of fireworks.
- (12) Sounds created by motor vehicle racing events at existing, authorized facilities between the hours of 9 a.m. and 11 p.m. on Fridays and Saturdays and between 9 a.m. and 10 p.m. on other days of the week.
- (13) Any activity or noise governed by superseding state or federal law, or preempted by any contrary provisions contained elsewhere in the Clallam County Code.

Section 3. Section .030, Enforcement, is created to read as follows:

- (1) The Clallam County Prosecuting Attorney and the Clallam County Sheriff's Office shall have the authority to enforce this Chapter. Evidence of sound level through the use of a sound level meter reading shall not be necessary to establish the commission of the offense.
- (2) For public disturbance noise that is related to motor vehicles and noise emanating from vehicles, enforcement may be undertaken with or without a citizen complaint.
- (3) For public disturbance noise that is not related to motor vehicles or noise emanating from vehicles, enforcement may be undertaken only upon receipt of a complaint made by a person residing or employed in an area affected by the public disturbance noise, except that enforcement under Section .010(4) may be undertaken upon receipt of a complaint made by any person affected by the public disturbance noise.
- (4) Any person who violates the provisions of this Chapter, without regard to any wrongful intention of the violator, is subject to a Class II civil infraction.
- (5) For any second offense occurring within a 12-month period, the person is subject to a Class I civil infraction.
- (6) For any third and subsequent offense occurring within a 12-month period, the person is subject to a misdemeanor, punishable by a fine of not more than \$1,000 and/or imprisonment in a County jail for not more than 90 days.

(7) A violation of the provisions of this Chapter is hereby determined to be detrimental to the public health, safety, and environment and is hereby declared to be a public nuisance, which may be subject to abatement and recovery of abatement costs pursuant to RCW 36.32.120(10), as now enacted or hereafter amended.

(8) The Prosecuting Attorney may at any time bring such additional injunctive, declaratory, criminal, or other actions as are necessary to enforce the provisions of this Chapter.

(9) Each violation shall constitute a separate violation for each and every day or portion thereof during which the violation is committed, continued, or permitted. Conviction of a violation or payment of a penalty does not relieve a violator from compliance with this Chapter.

(10) Nothing in this Chapter shall be interpreted to mean that civil and criminal remedies for the same violations may not be brought simultaneously.

(11) The provisions of this Chapter shall not affect any other claim, cause of action, or remedy for exceeding maximum environmental noise levels pursuant to Chapter 70.107 RCW and Chapter 173-60 WAC, or any local ordinance adopted pursuant thereto.

ADOPTED this _____ day of _____ 2008

BOARD OF CLALLAM COUNTY COMMISSIONERS

Michael C. Chapman, Chair

ATTEST:

Howard V. Doherty, Jr.

Trish Holden, CMC, Clerk of the Board

Stephen P. Tharinger