

ORDINANCE NO. 700

AN ORDINANCE RELATING TO THE CONTROL OF NOISE WITHIN THE TOWN OF DELMAR INCLUDING THE PROHIBITION OF INJURIOUS AND UNREASONABLY LOUD NOISES; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR THE APPLICATION OF PERMITS FOR THE USE OF SOUND AMPLIFICATION EQUIPMENT WITHIN THE TOWN.

WHEREAS the Mayor and Commissioners of Delmar have determined that noise is becoming a problem for residents of the Town and that the control of injurious and unreasonably loud noise is a quality of life issue; and

WHEREAS this Ordinance is intended to address the noise issues within the Town, to establish regulations to control unreasonably loud noises and penalties for the violation of this ordinance.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND COMMISSIONERS OF DELMAR, MARYLAND, as follows:

SECTION ONE - Definitions.

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

"Noise" means any undesirable audible sound, or any sound that annoys humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

"Sound-amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound and shall not be construed to include standard automobile radios when used and heard only occupants of the vehicle installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

SECTION TWO - Noises Prohibited.

A. It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the corporate limits of the Town of Delmar.

B. It shall be unlawful for any person or persons to knowingly permit the making, creation or maintenance of unreasonably loud noises upon any premises owned or possessed by him or under his control.

SECTION THREE - Prohibited Noises Enumerated.

The following acts or noises, among others, are hereby declared to be unreasonably loud and shall be in violation of this Ordinance:

A. The playing, using or operating, or participating in or permitting the playing, using or operating of, any radio receiving set, television, hi-fi set, stereo tape player, phonograph, compact disk player, computer, DVD player, tape player, or other machine or device (herein "device") for the producing or reproducing of sound, in such manner as to disturb the peace, quiet and comfort

of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such device is operated, and who are voluntary listeners thereto. The operation of any device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner that sound produced by the device is plainly audible at a distance of fifty (50) feet from the device shall be prima facie evidence of a violation of this Ordinance.

B. The using, operating or permitting to be played, used or operated, of any radio receiving set, television, hi-fi set, stereo, phonograph, stereo, tape player, compact disc player, computer, DVD player or other machine device (herein "device") for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the other persons or at a volume louder than is necessary for convenient hearing of the individual carrying the device or those immediately adjacent thereto and who are voluntary listeners thereto.

C. Yelling, shouting, hooting, whistling, or singing on the public streets, sidewalks or other public areas or in a vehicle, dwelling, motel, hotel, or commercial establishment, or from private property, in such a manner as to annoy or disturb the quiet, comfort or repose of any person in the vicinity, in such a manner as to be plainly audible at a distance of fifty (50) feet or more from the source between the hours of 10:00 P.M. and 7:00 A.M., or after having been once warned by a law enforcement officer to be quiet between the hours of 10:00 P.M. and 7:00 A.M.

D. Maintaining a commercial establishment from which loud noises emanate either as a result of mechanical, musical devices, live entertainment or patrons shall be in violation of this section if the noise is plainly audible in a residential district or one hundred (100') feet from the place where it emanates between the hours of 10:00 P.M. and 7:00 A.M.

E. The using or operating of any loudspeaker, public address system or similar device which is used for the producing or reproducing of sound which is cast upon a public street or area, except as permitted by Section Six of this Ordinance.

F. Animals and Birds – Owning, possessing, harboring, or controlling any animal or bird which barks, bays, cries, squawks or makes any other noise continuously or incessantly for a period of ten minutes or makes such noise intermittently for one half-hour or more causing a noise disturbance within a receiving property; provided, however, that at the time the animal or bird is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

G. To create, allow or permit the loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, liquids or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder or pellet form to create an unreasonably loud noise within a residential district, whether the source of the sound is from a residential, commercial or industrial area.

H. To cause, suffer, allow or permit the loading, unloading, opening, closing or other handling of garbage cans, refuse or similar objects or the compacting of refuse by persons engaged in the business of scavenging or garbage and/or trash collection so as to create a noise disturbance within a residential district, whether the source is from a residential, commercial or industrial area, between the hours of 10:00 P.M. and 7:00 A.M. of the following day.

I. To operate or permit the operation of any motor vehicle whose manufacturers gross weight is in excess of ten thousand (10,000) pounds or any auxiliary equipment attached to such vehicle, for a period of longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way or public space within a residential area or closer than one hundred fifty (150) feet to a residential area between the hours of 10:00 P.M. and 7:00 A.M.

J. To operate or permit the operation of any tool or equipment used in exterior construction, drilling, earth moving, excavating, pile driving and demolition, which can be heard in a residential district between the hours of 10:00 P.M. and 7:00 A.M., except for emergency work which may be permitted with the prior approval of the Town Manager, Public Works Director, Code Enforcement Officer, or their designees.

K. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, library or court while the same are in use or adjacent to any nursing home, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the nursing home, provided that conspicuous signs are displayed in such streets indicating that the same is a school, institution of learning, church, court, nursing home, or library.

SECTION FOUR - Determination of Person Responsible.

A. Public Street or Area sound: The person in possession of any hand-carried source of sound shall be conclusively presumed to be the person responsible; if the sound originates in any type of vehicle, the person seated or standing closest to the point of the origination shall be presumed to be the person responsible; if no one is in possession, the police officer may take possession of the source of the sound until the person responsible is determined and located.

B. Residential Property sound: The officer shall notify the person or persons in charge of the property or structure from which the sound originates, of the violation and such person shall be presumed to be the person responsible. Unless shown to be otherwise, the tenant and owner of any property shall both be presumed to be in charge.

SECTION FIVE - Exemptions.

The following noises are exempt from the provisions hereof:

A. Noise from domestic power tools, lawn mowers, and agricultural equipment when operated with a muffler or as manufactured between the hours of 7:00 A.M. to 10:00 P.M.

B. Sound from church bells and church chimes being sounded for normal and customary church business, celebration and holidays.

C. Noise from snow blowers, snow throwers, and snow plows when operated with a muffler or as manufactured for the purpose of snow removal.

D. Noise from stationary emergency signaling devices, which conforms to law, and noise from moving and stationary trains.

E. Noise from an alarm system as defined in Maryland Code Criminal Law, Article 9-607 activated for false alarms, in the case of a motor vehicle alarm lasting more than fifteen (15) minutes, and in the case of a burglary alarm lasting more than thirty (30) minutes.

F. Emergency vehicles, police vehicles, and any alarms sounded for an emergency.

G. Noise produced by or emanating from a motor vehicle being operated on a public street or highway if such noise is regulated by State law, except as set forth in Section Three I.

H. Sporting and Town approved events and the like are exempt from the restrictions of this Ordinance.

I. Noise from generators used for emergencies and power outages.

SECTION SIX - Permits for Amplification

A. The application of a permit for amplification shall be submitted to Town Hall at least fifteen (15) working days in advance of the planned use, except in case of an emergency. The application shall designate a person or persons who shall be in control of the sound amplification equipment and assure that its use complies with the terms of the permit. Upon tentative approval, the applicant for a permit shall be responsible for advertising in a newspaper of local circulation the date and time of their special event.

SECTION SEVEN - Penalties

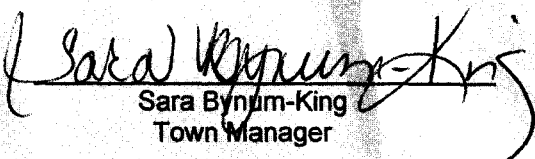
Any person, persons or group of persons who shall violate the provisions of this Ordinance shall, upon conviction thereof, be deemed guilty of a civil infraction, and shall be subject for the first noise offence a fine of \$50.00, for the second noise offence a fine of \$100.00, for the third noise offense a fine of \$500.00 and \$500.00 for each noise offence thereafter.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE MAYOR AND COMMISSIONERS OF DELMAR, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage.

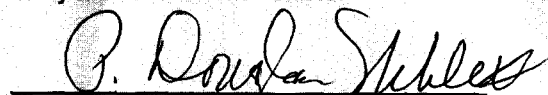
This Noise Ordinance **repeals** all other noise ordinances.

The above Ordinance was introduced, read and adopted on first reading on the 28 day of August, 2006 and following a public hearing, having been published as required by law in the meantime, was finally passed at a regular meeting of the Mayor And Commissioners of Delmar on the 25 day of September, 2006.

Attest:

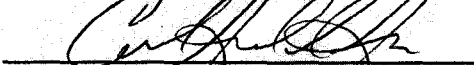

Sara Bynum-King
Town Manager


Mayor and Commissioners:


P. Douglas Niblett
Mayor, Delmar Maryland


Luther Hitchens
Deputy Mayor

Carrie Williams
Commissioner


Carl Anderton, Jr.
Commissioner


Joan Tisinger
Commissioner