

**TOWN OF LUMBERPORT  
ORDINANCE-CHAPTER XII  
AMENDMENT  
OFFENSES AGAINST THE PEACE**

An act to create and provide for a new and additional section to Chapter XII of the Town of Lumberport Town Ordinance. 2006, as amended, to provide for the regulation of noise within the Town of Lumberport.

**BE IT ENACTED BY THE TOWN COUNCIL OF LUMBERPORT, A  
MUNICIPAL CORPORATION:**

That Chapter 12 be amended by providing for an additional section to be known as Section 13 to provide for the regulation of noise within the municipal limits of the Town of Lumberport to read as follows:

**SECTION 15-A—REGULATION OF NOISE**

- (A) It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud and/or raucous, disturbing, unusual or unnecessary sound which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the limits of the Town of Lumberport. For the purpose of this ordinance, sound shall include vibrations caused by human, animal or mechanical means. A person shall not be in violation of this ordinance unless any such sound is perceived on another property, it being solely the intent of this ordinance to prohibit sounds from carrying from one property to adjacent or nearby properties, or a public right-of-way.
- (B) Within the town limits, the following activities are prohibited if they produce audible sound beyond the property line of the property on which they are conducted or from a public right-of-way.
- (1) The operation, between 10 p.m. and 7 a.m., Monday through Friday, and 10 p.m. and 8 a.m., Saturday and Sunday, of power tools or equipment.
  - (2) (a) The operation or playing of any radio, television, phonograph, tape player or compact disc player that can be heard fifty (50) feet away, or beyond the property line of the property on which such is being operated or played.
    - (b) The operation or playing of any drum or musical instrument between 10:00 p.m. and 8 a.m., unless same shall be in conjunction with any authorized school, church or civic function.
  - (3) Construction, repair, remodeling, demolition, drilling or excavation work between 10:00 p.m. and 6:00 a.m.

- (4) **The operation or use between 10:00 p.m. and 8:00 a.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds, unless such use or operation is in conjunction with an authorized school, church or civic function.**
  - (5) **The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.**
  - (6) **It shall be unlawful for any person to allow or permit any dog or other animal to bark, howl or in any other manner disturb the quiet of any persons.**
  - (7) **The use at any time of Jacobs engine brakes, i.e. Jake brakes are prohibited.**
- (C) The provisions of this section shall not apply to the following:**
  - (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger.**
  - (2) Sound made to alert persons to the existence of an emergency, danger, or attempted crime.**
  - (3) Activities or operations of governmental units or agencies.**
- (D) Whenever noise or sound is made, created, or continued in violation of the provisions of this section, and if the property upon which or from which the sound is emanating has two or more occupants, and it cannot be determined which occupant is the violator, the owner of the property, if present, shall be presumed to be responsible for the violation; in the absence of the owner of the property, the tenant, sub-tenant, licensee, invitee or guest then in control of the property shall be presumed to be responsible for the violation. In the event that it is impossible to determine the person then in control of the property, it shall be presumed that the owner of the property, if present, is responsible and if not present, all persons then on or in said property shall be ordered to disperse and leave said property and a failure to do so by any person shall itself be a municipal infraction punishable under the provisions of this section.**
- (E) When a violation of this ordinance occurs, a law enforcement officer shall undertake to notify the persons present in or on the property from which the sound or activity is emanating that they are in violation and notify them to cease and desist whatever is causing the violation. At this time the law enforcement officer shall also ascertain, if reasonably possible, the owner or tenant of the property in question. Notice hereunder may be given orally by the officer the owner and/or by posting a written notice on the premises where such violation is occurring. Any written notice posted shall contain a specific description of the nature of the violation.**
- (F) The continuation of such violation or any subsequent violation of the same proscription following receipt of the notice to cease and desist shall constitute a municipal infraction punishable as hereinafter set forth.**
- (G) Violation of any provision of this article is declared to be a municipal infraction, punishable by a fine of Twenty-five Dollars (\$25.00) and costs if**

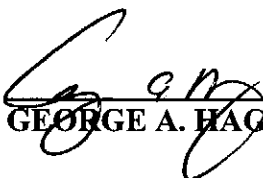
said violation is a first offense, and a fine of Fifty Dollars (\$50.00) and costs for each repeat offense.

**BE IT FURTHER ENACTED** that this Ordinance shall take effect and be in force after its passage, the public welfare requiring it.

**PASSED** by Council of the Town of Lumberport, West Virginia, on First Reading this 5th day of June, 2006.

**PASSED** by Council of the Town of Lumberport, West Virginia, on Second Reading this 10th day of July, 2006.

**ATTEST:**

  
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GEORGE A. HAGAN, MAYOR

  
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WILLIAM A. KEENER, RECORDER