

THE TOWN OF HOLDERNESS, NH

**DISORDERLY ACTIONS ORDINANCE**

ORDINANCE RELATIVE TO PROHIBITING CERTAIN DISORDERLY ACTIONS WHICH THREATEN THE PUBLIC PEACE, HEALTH AND SAFETY, AND REGULATING CERTAIN USES OF PUBLIC STREETS, WAYS AND SQUARES WITHIN THE TOWN OF HOLDERNESS, NEW HAMPSHIRE.

Pursuant to RSA 41:11 and RSA 47:17, it is hereby, ordained by the Board of Selectmen of the Town of Holderness, New Hampshire, as follows:

***DISORDERLY ACTIONS:*** A person shall be guilty of disorderly actions if:

- I. Such person creates a condition which is hazardous to such person or another in a Public Place by any action which serves no legitimate purpose; or
- II. Such Person:
  - a. Engages in fighting or violent, tumultuous or threatening behavior in a public Place: or
  - b. Directs at another person in a Public Place obscene, derisive, or offensive words which are likely to provoke a violent reaction on the part of any ordinary person; or
  - c. Obstructs vehicular or pedestrian traffic on any public street or sidewalk or the entrance to any public building: or
  - d. Engages in conduct in a Public Place which substantially interferes with a criminal investigation, a firefighting operation to which RSA 154:17 is applicable, the provision of emergency medical treatment, or the provision of other services when traffic or pedestrian management is required: or
  - e. Knowingly refuses to comply with a Lawful Order of a peace officer to move from any Public Place: or
- III. Such person causes a breach of the peace, public inconvenience, annoyance or alarm, or creates a risk thereof, by:
  - a. Making loud or unreasonable noises in a Public Place, or making loud or unreasonable noises in a private place which can be heard in a Public Place or other private places, which noises would disturb a person of average sensibilities; or continuing, or causing or allowing to be made or continued any of the foregoing noises after having been requested by any person to diminish or terminate such noises; or

- b. Disrupting the orderly conduct of business in any public or governmental facility; or
  - c. Disrupting any lawful assembly of persons without lawful authority; or
  - d. Making loud or unreasonable noises by operating any mechanically powered saw, grinder, drill, lawn mower or garden tool, or similar device used outdoors with the exception of snow removal equipment, between the hours of 10:00 P.M. and 6:00 A.M. Monday through Saturday and between the hours of 10:00 P.M. and 8:00 A.M. on Sunday; or
  - e. Making loud or unreasonable noises by loading, unloading, opening closing, or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters, or similar objects between the hours of 10:00 PM and 6:00 AM; or
  - f. Operating any motor vehicle in a Public Place so as to make excessive noise by any of the following means:
    - 1. Misuse of power, acceleration or traction so as to spin the wheels or lose traction.
    - 2. Misuse of brake and stopping power in the deceleration of a motor vehicle where no legitimate emergency exists.
    - 3. Misuse of power, acceleration or traction by means of rapid up shift, downshift or changing of transmission gears.
    - 4. Racing of engine by means of the accelerator, carburetor, or gear selector, either when the motor vehicle is in motion or stationary.
- IV. Such person dumps, discards, deposits, throws or leaves, or causes or permits the dumping, discarding, depositing, throwing or leaving of litter on any Public Place.
- V. Such person carries, transports, possesses or otherwise has under his control any intoxicating liquor, within the limits of or upon any way, public place, public building or grounds of any public building, except in the original container and with the seal unbroken.
- VI. Such person urinates or defecates on any Public place or property, or in any private place or property viewable from any Public Place: or who fornicates or

exposes their genitals on any Public Place or property, or in any private place or property viewable from any Public Place, under any circumstances which they should know will likely cause affront or alarm.

## **ADDITIONAL PROVISIONS**

### **VII. DEFINITIONS:** As used in this Ordinance,

- a. “Intoxicating Liquor” shall have the same meaning as defined in RSA 21:33.
- b. “Lawful Order” means:
  - 1. a command issued to any person for the purpose of preventing such person from committing any offense when an officer has reasonable grounds to believe that such person is engaged in a course or conduct which makes the commission of such an offense imminent; or
  - 2. a command issued to such person to stop such person from continuing to commit any offense when an officer has reasonable grounds to believe that such person is presently engaged in conduct which constitutes any such offense.
- c. “Litter” means any and all waste products, paper, cans, bottles, glass, rubbish, refuse, garbage, trash debris, animal carcasses, organic waste, or other discarded materials of every kind and description, whether solid, liquid, or gaseous.
- d. “Loud” noise means any noise as prior described in Section III (a) herein.
- e. “Public Building” means any local government or school offices, facilities, or buildings.
- f. “Public Place” means any place within the Town of Holderness to which the public or a substantial group has access. The term includes, but is not limited to, public ways, sidewalks, parking lots, retaining walls, parks recreational areas, schools, medical or government offices or facilities, and the lobbies or hallway of apartment buildings, dormitories, hotels or motels.
- g. “Way” shall have the same meaning as defined in RSA 259:125.

### **VIII. EXEMPTIONS**

- a. The following uses and activates shall be exempt from regulation under this Ordinance:
1. Noises of safety signals and warning devices when used for the purpose for which they were intended and emergency pressure relief valves;
  2. Noises resulting from any authorized vehicles, when responding to an emergency call or acting in time of emergency;
  3. Noises resulting from emergency and maintenance work as performed by the Town of Holderness and its employees, the State of New Hampshire, or other public utility companies; noises resulting from the provision of municipal or utility services; noises resulting from private persons engaged in snowplowing services;
  4. Any other noise resulting from activities of a temporary duration as permitted by law and for which a license or permit thereof has been granted or issued by the Town of Holderness;
  5. Parades and other public gatherings for which the Town of Holderness has issued a permit;
  6. Bells, chimes or carillons that are presently installed and in use for any purpose;
  7. Agricultural operations under RSA 430 c:1, c:2, c:4;
  8. Under section V, under any of the circumstances except in RSA 265:81, (V), or in those specific areas, grounds, or buildings authorized to serve liquor pursuant to a license issued by the New Hampshire Liquor Commission under RSA 178.

**IX. APPLICATION FOR SPECIAL PERMIT:** Prior to the commencement of activity which may violate this Ordinance, application for a special permit for relief from this Ordinance on the basis of undue hardship or any other reasonable ground may be made by submitting a request in writing to the board of Selectman with a copy to the chief of Police. Any permit granted by the Selectmen shall be in writing and sent forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement.

- X. **PENALTIES:** Any person who violates the provisions of this ordinance shall be guilty of a violation, punishable by a fine of not less than \$50.00, but not exceeding \$1,000.000.
- XI. **SEVERABILITY:** If any provision or language herein is found to be invalid or unenforceable, superseded, or preempted under any law or regulation, such invalidity shall not affect any other remaining provision or language which can be given effect without the invalidated portion.
- XII. **HEADINGS:** The section numbers and headings contained herein are included for convenience only and are not to be used in the interpretation of this Ordinance.
- XIII. **REFERENCES:** As used herein, references to New Hampshire statutes shall be to the current Revised Statutes Annotated, or its successors as amended, superseded, or revised.

This Ordinance shall take effect upon passage and shall remain in full force and effect until amended or repealed by appropriate authority. This Ordinance supersedes all prior ordinances on similar subject matter.

Passed and approved by the Board of Selectmen of the Town of Holderness, New Hampshire this 6th day of July, 2004  
Signed this 6<sup>th</sup> day of July, 2004

Steven L. Huss  
Barbara C. Currier  
Peter S. Francesco  
Peter T. Webster  
Samuel L. Laverack

Board of Selectmen  
Holderness, New Hampshire

Received and Recorded August 4<sup>th</sup>, 2004 at 9:00 AM  
Ellen King – Town Clerk