

ORDINANCE NO. 2019-10-01

AN ORDINANCE OF THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA AMENDING THE CODE OF ORDINANCES WITH RESPECT TO THE REGULATION OF NOISE

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-184, the Village of Bald Head Island (the “Village”) may enact and amend ordinances that regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens and visitors; and

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-174, the Village may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and peace and dignity of the Village; and

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-175, the Village may adopt, establish and amend procedures for enforcement of ordinances, including the imposition of fines and penalties for ordinance violations; and

WHEREAS, the Village Council finds it will promote the health and welfare of Village citizens and visitors and will further the peace and dignity of the Village, and is, therefore, in the best interest of the Village, to amend the Village Code of Ordinances with respect to noise regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Village of Bald Head Island, North Carolina:

Section 1. That section 16-131 of the Village Code is hereby amended and restated to read as follows:

Sec. 16-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Outdoor amplified sound means any sound using sound amplifying equipment which is projected outside of a structure or vehicle whether the source of sound is located inside or outside of a structure or vehicle and the sound is projected to the outside by way of speakers, or through open doors, windows, or other openings.

Sound amplifying equipment means any device for the amplification of a human voice, music, or any other sound of any kind. Sound amplifying equipment includes, but is not limited to, jukeboxes, stereos and radios.

Section 2. That section 16-132 of the Village Code is hereby amended and restated to read as follows:

Sec. 16-132. Prohibited generally.

Subject to the provisions of this division, the creation of any unreasonably loud and disturbing noise that would annoy, frighten, or disturb the quiet, comfort or repose of any reasonable person of ordinary sensibilities in the vicinity is prohibited within the village. In determining whether a violation of this section has occurred, the public safety department may take into account the volume, duration, time, location, and other circumstances surrounding the noise.

Section 3. That section 16-133 of the Village Code is hereby amended and restated to read as follows:

Sec. 16-133. Specific prohibitions enumerated.

The following activities, among others, are hereby declared unreasonably loud and disturbing noises, but such enumeration shall not be deemed to be exclusive:

(1) Continual yelling, shouting, or singing on the public streets or private property to the extent it is disturbing or frightening to persons in the vicinity.

(2) The playing of any musical instruments, whether the playing is done with or without sound amplifying equipment in such a manner that the sound level generated thereby unreasonably disturbs or frightens persons in the vicinity where the musical instruments are being played.

(3) The playing of prerecorded music or other sound from jukeboxes, stereos, radios, or other devices which results in outdoor sound, in a manner that is unreasonably disturbing or frightening to persons in the vicinity where the music is being played. Notwithstanding the foregoing, commercial restaurants and facilities operated by private clubs, property owner's associations, and not-for-profit/ tax exempt businesses are exempt from this provision between the hours of 7:00 a.m. and 11:00 p.m.

(4) The keeping of any animal, including but not limited to a bird or dog, which makes frequent or long continuing sounds, in a manner that is likely to disturb persons in the vicinity outside the structure or property where the animal sounds are generated.

(5) Operation or permitting the operation of any sound amplifying equipment, in a fixed or movable position exterior to any residence. The use or operation of any sound amplifying device located within or outside a residence in a manner that disrupts or interferes unreasonably with an adjacent residential property owner or resident's enjoyment of that property.

(6) The creation of unreasonably loud, disturbing sound levels adjacent to a church or governmental office, during operating hours of such facility, which does or is likely to interfere with the operation of such institution.

(7) The use of any sound amplifying equipment that projects outdoor amplified sound for advertising or solicitation purposes, except with an appropriate permit issued in accordance with this division.

Section 4. That section 16-136 of the Village Code is hereby amended and restated to read as follows:

Sec. 16-136. Enforcement and penalties.

Any public safety officer of the village who determines that probable cause exists that any person has violated this division shall first issue an oral order to comply with this division. Any person who fails to comply with this division, after being given such an oral order and a reasonable time to comply therewith, or any person who violates this division again within 30 days following the receipt of such an oral order, shall be issued a civil citation carrying a penalty in the amount of \$[50.00]¹ pursuant to GS. 160A-175, which penalty shall be exempt from prosecution under G.S. 14-4. Once a public safety officer issues an oral order to comply with this division to any person, the public safety officer need not issue another oral warning to that person prior to issuing a citation, provided that the violation occurs within 30 days of the issuance of the oral order. The civil penalty shall be paid during regular business hours at the office of the village clerk or online at the village website within forty-eight (48) hours of issuance of the civil citation.

Section 5. This ordinance shall be effective upon its adoption.

PASSED AND ADOPTED by the Village Council, this the 15th day of OCTOBER, 2019.

BY:



J. ANDREW SAYRE, Mayor

ATTEST:



DARALYN SPIVEY, Village Clerk

1st Reading: 9-20-19

2nd Reading: 10-15-19