



TOWN OF FREEPORT, MAINE
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TO: Freeport Town Council
FROM: Caroline Pelletier, Interim Town Manager
RE: Proposed Amendment to Chapter 39 – Loitering, Curfew and Noise Ordinance
DATE: Tuesday, April 25, 2023

Background: For Council consideration, are proposed amendments to the Town of Freeport – Loitering, Curfew and Noise Ordinance. The amendments, as proposed, are being brought forward based upon resident concerns regarding nuisance lighting. The language was drafted by the Town Attorney, with input from the former Town Manager and some concerned residents. The proposed language would add a new section, “Nuisance Lighting” to the existing Loitering, Curfew and Noise Ordinance and utilized the existing enforcement provision which is currently in place for noise violations.

CHAPTER 39

LOITERING, CURFEW, ~~AND NOISE~~ AND NUISANCE LIGHTING

ARTICLE I LOITERING, CURFEW AND NOISE ORDINANCE

SECTION 39-101 LOITERING

No person shall loiter in, on, or adjacent to any of the streets, ways or public places, in the Town of Freeport, and no person shall loiter unnecessarily in or about any private dwelling or peep into windows of any private dwelling to the discomfort or alarm of the residents of such dwelling, the neighbors, or any person going to and from the same.

SECTION 39-102 CURFEW

No parent, legal guardian or other person having the care and control of a child under the age of fifteen years shall permit such child to be or remain in or on any of the streets, ways, or public places of the Town of Freeport after nine o'clock in the evening unless such child shall be engaged in the performance of some lawfully authorized employment or shall be in the course of active travel over said streets, ways, or public places between a specific point of origin and a specific destination or shall be accompanied by said parent, legal guardian or other adult person.

SECTION 39-103 NOISE

- A. No person shall make, continue, or cause to be made or continue any loud, profane, boisterous, unnecessary, or unusual noises which shall either annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others. The sounding of any horn or signaling device, except as a danger warning; the playing of any radio, musical instrument, phonograph, or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants and passersby; the use of any loud speaker or amplifier for the purpose of commercial advertising or attention of the public to a specific building, location or business; yelling, shouting, hooting, whistling, or singing shall be considered to be loud, disturbing, and unnecessary noises and a violation of this Ordinance but such enumeration shall not be deemed exclusive except as authorized by the Town Council.
- B. Subsection (A), above, shall not apply to noise emitted by or related to:
 - 1. Any bell or chime from any building clock, school, or church.
 - 2. Any siren, whistle, or bell lawfully used by emergency vehicles or any

other alarm systems used in an emergency situation; provided, however, that burglar alarms or car alarms not terminating within 30 minutes after being activated shall be unlawful.

3. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
4. Farm operations as defined by 7 M.R.S. § 152.
5. Noise from domestic power equipment including, but not limited to, lawn and garden tools, chainsaws used to fell trees and remove logs from a site, or similar devices operated during daytime hours.
6. Timber harvesting activities as defined by 12 M.R.S. § 8868.
7. Noise generated by any motorized construction, excavation, or demolition equipment (including, but not limited to: excavators, dump trucks, bulldozers, loaders/backhoes, graders, well-drilling rigs, hydraulic hammers, rock processing and screening machines, and blasting equipment) operated Mondays through Fridays 7:00 a.m. to 6:00 p.m., excepting major holidays as defined in subsection (C), below.
8. Noise from excavation activities regulated under Section 509. Extraction of the Freeport Zoning Ordinance.
9. Municipal, public works, or utility projects.
10. Noise generated by amplification during athletic events in the Village I (V-I) District after 10:00 pm as regulated by Section 515.D Noise Regulation of Freeport Zoning Ordinance.

NOTE: Noise created by refuse and solid waste collection is regulated pursuant to Chapter 28.

- C. For the purposes of section 39-103(B), “daytime hours” means the hours between 7:00 a.m. and 6:00 p.m. Mondays through Fridays and between 9:00 a.m. and 5:00 p.m. Saturdays through Sundays which do not fall on New Year’s Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day (collectively, “major holidays”).

SECTION 39-104 NUISANCE LIGHTING

A. A person may not use, install, or replace any permanent or temporary lighting system unless the lighting system (i) is a fully shielded lighting system and (ii) does not cause glare or light trespass. For purposes of this subsection:

1. “Lighting system” means any artificial light, mirror, or other device used to illuminate an outdoor space. “Lighting system” includes, but is not limited to, temporary or permanent streetlights, spotlights, floodlights, light torches, light towers, indoor and outdoor lamps, and the assembly that holds the lighting system (which may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens).
2. “Light trespass” means light emitted by a lighting system that exceed one-tenth (0.1) of one footcandle of vertical illuminance at any boundary line of the property on which the lighting system is located. For purposes of this definition, a “footcandle” is a unit

- of measure expressing the quantity of light received on a surface and equal to the illuminance produced by a candle on a surface one foot square from a distance of one foot. Vertical illuminance is measured or calculated in a plane perpendicular to the property line.
3. “Glare” means direct light emitting from a lighting system that causes reduced vision or momentary blindness, creates a safety hazard, or creates a nuisance to abutting or nearby property owners. Glare includes, but is not limited to, any beam of light crossing a property line.
4. “Fully shielded lighting system” means a lighting system that, as designed and installed, projects all of its light below the horizontal plane through the lighting system’s lowest light-emitting part.
- B. Exceptions. The provisions of this Section shall not apply (i) to lighting generated by construction activities or outdoor events authorized pursuant to a permit, license or approval granted by a municipal reviewing authority; (ii) to municipal, public works, or utility projects; (iii) when federal or state laws, rules, or regulations control; or (iv) when the Freeport Police Chief determines that an exception to one or more of the provisions of this Section is necessary due to a compelling safety interest that cannot be practically addressed by any other method.

SECTION 39-~~104~~105 ENFORCEMENT

- A. This Ordinance may be enforced by any sworn law enforcement officer of the Freeport Police Department as a civil violation.
- B. Violations of sections 39-101 shall be punishable by a civil penalty or not more than \$100, which shall be assessed against the person creating the violation.
- C. Violations of Section 39-102 shall be punishable by a civil penalty of not more than \$100, which shall be assessed against the parent, legal guardian, or other adult person responsible for the care and control of the child in question.
- D. Violations of ~~section~~Section 39-103 & Section 39-104 shall be punishable by a civil penalty assessed against either the person creating the violation, or the owner of record of the property upon

which the violation occurs or continues to occur, if that person should be a separate and distinct entity from the person causing the violation. Each day that a violation occurs or continues to occur shall be considered a separate violation and may be punished separately. Violations shall be punishable by a civil penalty according to the following schedule:

- i. The first violation in a one year period shall be punishable by a civil penalty of at least \$250, but not more than \$500.
- ii. The second violation in a one year period shall be punishable by a civil penalty of at least \$500, but not more than \$1,000.
- iii. The third and any subsequent violations in a one year period shall be punishable by a civil penalty of at least \$1,000, but not more than \$2,000.
- iv. In addition to civil penalties listed above, any subsequent violations beyond three within a one year period shall constitute a nuisance subject to injunctive relief.

Revision history

The provisions of this chapter were originally adopted as an Ordinance at the annual Town Meeting on March 12, 1962.

Revised 04/03/2018 – Added sec. 39-103(B)&(C), substantially revised sec. 39-104.

Revised 05/21/2019-Removed sentence in Section 39-103 Noise.

Revised 09/21/21 -Section 39-103.B, items 5, 6, 7, 8, & 10 and Section 39-103.C