



CITY OF THORNE BAY
ORDINANCE 21-07-20-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING TITLE 15 – BUILDINGS AND CONSTRUCTION, ADDING CHAPTER 15-09-NUISANCES, SECTIONS 15.09.010 THROUGH 15.09.080

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY ALASKA

- Section 1. Classification.** This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2. Severability.** If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. Amendment to Code.** Title 15 – Buildings and Construction, Adding Chapter 15-09- Nuisances, Sections 15.09.010 – 080 as set fort on pages 2 through 5 of this ordinance.
- Section 4. Adoption.** The Chapter and Section of TBMC 15.09-Nuisances, Sections 15.09.010 through 080, is hereby adopted and shall be added to the Thorne Bay Municipal Code.
- Section 5. Effective Date.** This ordinance shall become effective upon adoption.

PASSED AND APPROVED this 20th day of July 2021, by a duly constituted quorum of the City Council with a vote of ____ Yeas and ____ Nays.

ATTEST:

Cindy Edenfield, Mayor

Teri Feibel, CMC

[Sponsor: Thom Cunningham]
[Introduction Hearing: June 15, 2021]
[2nd Introduction Hearing: July 6, 2021]
[Public Hearing: July 20, 2021]

**THORNE BAY MUNICIPAL CODE
TITLE 15-BUILDINGS AND CONSTRUCTION
ADDING CHAPTER 15.09**

ALL SECTIONS OF THIS CHAPTER ARE NEW ADDITIONS TO THE CITY CODE:

CHAPTER 15.09 NUISANCES

- 15.09.010 DEFINED.
- 15.09.020 PROHIBITED – ABATEMENT GENERALLY.
- 15.09.030 ACCUMULATIONS OF RUBBISH AND MATERIALS PROHIBITED.
- 15.09.040 EXCESSIVE NOISE PROHIBITED.
- 15.09.050 CERTAIN CONDITIONS DECLARED NUISANCES.
- 15.09.060 REMEDIES NOT EXCLUSIVE.
- 15.09.070 NOTIFICATION OF OFFENDERS BY POLICE CHIEF – ABATEMENT.
- 15.09.080 PENALTY FOR VIOLATION.

15.09.010 DEFINED.

FOR PURPOSES OF THIS CHAPTER, “NUISANCE” MEANS ANY ACT OR CREATION WHICH IS INJURIOUS TO THE PUBLIC HEALTH, OR WHICH PREVENTS OR OBSTRUCTS THE FREE AND COMFORTABLE ENJOYMENT OF LIFE AND PROPERTY, OR WHICH IS DANGEROUS TO SURROUNDING PROPERTY.

15.09.020 PROHIBITED – ABATEMENT GENERALLY.

- A. IT IS UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION TO PERMIT OR MAINTAIN THE EXISTENCE OF ANY NUISANCE ON ANY PROPERTY UNDER HIS OR ITS CONTROL.
- B. WHENEVER A NUISANCE IS DEEMED TO EXIST IT SHALL BE ABATED BY THE PLANNING OFFICIAL, CODE ENFORCEMENT OFFICER OR CHIEF OF POLICE AT THE EXPENSE OF THE PERSON MAINTAINING SUCH NUISANCE.

15.09.030 ACCUMULATIONS OF RUBBISH AND MATERIALS PROHIBITED.

NO OWNER, LESSEE, AGENT, TENANT, OR OCCUPANT SHALL ALLOW OR PERMIT ANY JUNK VEHICLES, JUNK, DEBRIS, OR INDISCRIMINATE STORAGE OF MACHINERY, EQUIPMENT PARTS, LUMBER, OR OTHER MATERIAL, OR ANY ACCUMULATION OF GARBAGE, MANURE, OFFAL, RUBBISH, STAGNANT WATER, OR ANY FILTHY LIQUID OR SUBSTANCE, OR ANYTHING THAT IS OR MAY BECOME PUTRID OR OFFENSIVE TO BE OR REMAIN UPON HIS YARD, LOT OR PREMISES, OR UPON ANY YARD, LOT OR PREMISES CONTROLLED BY HIM.

15.09.040 EXCESSIVE NOISE PROHIBITED.

A. NO PERSON SHALL MAKE, ASSIST IN MAKING, CONTINUE, OR CAUSE TO BE MADE ANY EXCESSIVE LOUD, DISTURBING, OR UNNECESSARY NOISE. "EXCESSIVE" FOR PURPOSES OF THIS CHAPTER IS DEFINED AS EXCEEDING THE NOISE GENERATED BY USES ALLOWED IN THIS CHAPTER OR PERMITTED IN THE DISTRICT IN THEIR CUSTOMARY MANNER OF OPERATION, OR INJURIOUS TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.

B. EXCEPTIONS.

1. **EMERGENCY AND PUBLIC WORK.** NOISE OR SOUND CREATED IN THE PERFORMANCE OF PUBLIC SERVICE BY GOVERNMENTAL AGENCIES OR THEIR CONTRACTORS WHILE PERFORMING CONSTRUCTION, REPAIR, MAINTENANCE OR SNOW REMOVAL SERVICES; OR EMERGENCY WORK ENGAGED IN BY PERSONS FOR PUBLIC SAFETY, HEALTH OR WELFARE; OR TO RESTORE PROPERTY TO A SAFE CONDITION FOLLOWING A PUBLIC EMERGENCY; OR WORK TO RESTORE ESSENTIAL PUBLIC SERVICES, INCLUDING CONSTRUCTION ACTIVITIES DIRECTLY RELATED TO THE ABATEMENT OF ANY EMERGENCY, SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SECTION.
2. **NOISES FROM AUTHORIZED ACTIVITIES.** THE PROHIBITIONS OF THIS SECTION SHALL NOT APPLY TO AIR TRAFFIC, PARADES, CULTURAL EVENTS, ATHLETIC GAMES, FAIRS, OR FUNCTIONS AND ACTIVITIES APPROVED BY THE BOROUGH.
3. **SIRENS, HORNS AND WHISTLES.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY SIREN, WHISTLE, HORN OR BELL USED BY EMERGENCY VEHICLES OR CIVIL DEFENSE OR USED BY MOTOR VEHICLES AS WARNING DEVICES TO AVOID COLLISIONS.
4. **BELLS OR CHIMES.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY BELL OR CHIMES, OR ANY DEVICE FOR THE PRODUCTION OR REPRODUCTION OF THE SOUND THEREOF, WHICH ARE ASSOCIATED WITH A CLOCK OR TIME-KEEPING DEVICE, CHURCH OR SCHOOL.
5. **BURGLAR ALARMS.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY BURGLAR ALARM OR SECURITY DEVICE; PROVIDED, HOWEVER, NO BURGLAR ALARM OR SECURITY DEVICE SHALL SOUND FOR MORE THAN 15 MINUTES AFTER BEING ACTIVATED.
6. **CONSTRUCTION ACTIVITY OR EQUIPMENT.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY CONSTRUCTION ACTIVITY OR EQUIPMENT OPERATED BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. MONDAY THROUGH SATURDAY AND 9:00 A.M. AND 8:00 P.M. ON SUNDAY.
7. **POWER TOOLS.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY POWER TOOLS, INCLUDING CHAIN SAWS, REASONABLY OPERATED BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. MONDAY THROUGH SATURDAY AND 9:00 A.M. AND 8:00 P.M. ON SUNDAY.
8. **VESSELS.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE NORMAL OPERATION OR MAINTENANCE OF ANY BOAT OR VESSEL BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. MONDAY THROUGH SATURDAY AND 9:00 A.M. AND 8:00 P.M. ON SUNDAY.
9. **MOTOR VEHICLES.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE NORMAL AND USUAL OPERATION OF MOTOR VEHICLES.

10. **MOTOR VEHICLE MAINTENANCE.** THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE NORMAL MAINTENANCE OF A MOTOR VEHICLE BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. MONDAY THROUGH SATURDAY AND 9:00 A.M. AND 8:00 P.M. ON SUNDAY.

C. TEMPORARY EXCESSIVE NOISE PERMIT.

IF THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE AUTHORIZED CITY ENFORCEMENT OFFICIAL, THAT IMMEDIATE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION WOULD BE IMPRACTICAL OR UNREASONABLE, THE OFFICIAL MAY ISSUE A TEMPORARY USE PERMIT TO ALLOW EXCEPTION FROM ANY OR ALL OF THE PROVISIONS CONTAINED IN THIS SECTION, WITH APPROPRIATE CONDITIONS TO MINIMIZE THE PUBLIC DETRIMENT CAUSED BY SUCH EXCEPTIONS. ANY SUCH PERMIT SHALL BE FOR AN INITIAL TERM AS SPECIFIED BY THE ZONING OFFICIAL NOT TO EXCEED 15 DAYS. LONGER TERMS UP TO 90 DAYS MAY BE GRANTED BY THE PLANNING AND ZONING COMMISSION THROUGH THE CONDITIONAL USE PERMITTING PROCESS OUTLINED IN 17.04.043 OF THE THORNE BAY MUNICIPAL CODE.

IN DETERMINING WHETHER A TEMPORARY USE PERMIT SHOULD BE ISSUED AND THE NATURE AND SCOPE OF ANY CONDITIONS TO BE IMPOSED, THE ENFORCEMENT OFFICIAL SHALL CONSIDER THE FOLLOWING FACTORS:

1. THE LEVEL AND INTENSITY OF THE NOISE;
2. THE LEVEL AND INTENSITY OF THE BACKGROUND NOISE, IF ANY;
3. THE PROXIMITY OF THE NOISE TO RESIDENTIAL AREAS;
4. THE TIME OF DAY WHEN THE NOISE OCCURS;
5. THE DURATION OF THE NOISE, AND WHETHER IT IS RECURRENT, INTERMITTENT OR CONSTANT;
6. THE NATURE AND ZONING OF THE AREA WITHIN WHICH THE NOISE EMANATES OR TO WHICH IT IS TRANSMITTED.

- D. VIOLATIONS.** ANY PERSON VIOLATING ANY PROVISION OF THIS CHAPTER IS GUILTY OF AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN THE TBMC 1.16.035 FINE SCHEDULE IF THE OFFENSE IS LISTED IN THAT FINE SCHEDULE OR BY A FINE OF UP TO \$300.00 IF THE OFFENSE IS NOT LISTED IN THE TBMC 1.16.035 FINE SCHEDULE.

15.09.050 CERTAIN CONDITIONS DECLARED NUISANCES.

IN ADDITION TO OTHER PUBLIC NUISANCES DECLARED BY OTHER SECTIONS OF THIS CODE, THE NONEXCLUSIVE FOLLOWING ARE DECLARED TO BE PUBLIC NUISANCES:

- A. ANY PIT, HOLE, OR OTHER THING WHICH IS SO CONSTRUCTED, FORMED, CONDITIONED, AND/OR SITUATED AS TO ENDANGER THE PUBLIC SAFETY;
- B. ANY FIRE OR EXPLOSION HAZARD WHICH ENDANGERS THE PUBLIC PEACE, HEALTH, SAFETY, OR WELFARE;
- C. ANY OCCUPATION OR ACTIVITY WHICH ENDANGERS THE PUBLIC PEACE, HEALTH, SAFETY, MORALS, OR WELFARE.

15.09.060 REMEDIES NOT EXCLUSIVE.

NOTHING IN THIS CHAPTER SHALL INTERFERE WITH REMEDIES PROVIDED IN OTHER SECTIONS OF THIS CODE FOR THE ABATEMENT OF NUISANCES, OR WITH THE REMEDIES PROVIDED IN THE BUILDING CODE, OR WITH ANY OTHER REMEDY AFFORDED BY THE LAWS OF THE STATE. THE BOARD OR MAYOR OF THE CITY MAY, AT THEIR OPTION, CHOOSE ANY METHOD OR COMBINATION OF METHODS PROVIDED FOR IN THIS CHAPTER, OR PROVIDED BY LAW, IN ORDER TO ENFORCE THE PROVISIONS OF THIS CHAPTER.

15.09.070 NOTIFICATION OF OFFENDERS BY DESIGNATED ENFORCEMENT OFFICIAL – ABATEMENT.

IT SHALL BE THE DUTY OF THE CODE ENFORCEMENT OFFICER, PLANNING OFFICIAL OR VILLAGE PUBLIC SAFETY OFFICER UPON RECEIVING NOTICE OF ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER IMMEDIATELY TO NOTIFY THE OFFENDER TO ABATE AND REMOVE THE SAME WITHIN SUCH TIME AS HE MAY DEEM PROPER, NOT TO EXCEED 24 HOURS. IF THE NUISANCE HAS NOT BEEN REMOVED OR ABATED WITHIN THE TIME SPECIFIED IN THE NOTICE, THE AUTHORIZED ENFORCEMENT OFFICER, PLANNING OFFICIAL OR VILLAGE PUBLIC SAFETY OFFICER SHALL CAUSE THE SAME TO BE REMOVED AND THE EXPENSE THEREOF SHALL BE PAID BY THE CITY AND RECOVERED FROM THE OWNER BY AN ACTION AT LAW.

15.09.080 PENALTY FOR VIOLATION.

IN ADDITION TO THE REMEDIES PROVIDED BY THIS CHAPTER AGAINST ANY SUCH BUILDING OR OTHER STRUCTURE, ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO WILLFULLY VIOLATES ANY PROVISION OF THIS CHAPTER, OR WHO WILLFULLY FAILS OR REFUSES TO COMPLY WITH FINAL ORDER, DETERMINATION, DECISION OR JUDGMENT OF THE BOARD OF ADJUSTMENT MADE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, OR ANY FINAL INTERMEDIATE ORDER MADE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER BY THE CITY ADMINISTRATOR, PLANNING OFFICIAL, CODE ENFORCEMENT OFFICER, FIRE CHIEF, VILLAGE PUBLIC SAFETY OFFICER, OR OTHER AUTHORIZED OFFICER OR EMPLOYEE OF THE CITY SHALL BE PUNISHABLE AS PROVIDED FOR IN TBMC 1.16.035. ANY PERSON VIOLATING ANY PROVISION OF THIS CHAPTER IS GUILTY OF AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN THE TBMC 1.16.035 FINE SCHEDULE IF THE OFFENSE IS LISTED IN THAT FINE SCHEDULE OR BY A FINE OF UP TO \$300.00 IF THE OFFENSE IS NOT LISTED IN THE TBMC 1.16.035 FINE SCHEDULE.