

TITLE 9

PUBLIC PEACE, MORALS AND WELFARE

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I. OFFENSES AGAINST PUBLIC PEACE

9-1 Disorderly conduct in street.

No person shall behave in a disorderly manner, or utter any obscene or indecent language in any public street or public place in this city; and no person shall, without right, stand or remain upon a wall or fence, or upon any doorstep or other projection from a house, or obstruct any passage to or from such house or building, after having been requested by a police officer of the city, or by the owner or occupant of any such building, to depart and stay therefrom. (Prior Ch. 25, sec. 5(E)).

9-2 Noise Control.

A. Declaration of Findings and Policy: Whereas excessive sound is a hazard to the public health, safety, welfare and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, safety, welfare or degrade the quality of life; now, therefore, it is the policy of the City of Woburn to prevent excessive sound which may jeopardize the health, safety or welfare of its citizens or degrade the quality of life.

B. Scope: This Ordinance shall apply to the control of all sound originating within the limits of the City of Woburn except as follows:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in the training exercises related to emergency activities.
2. All snow clearance activities by the City, its agencies or departments or any person under a contractual arrangement with the City.
3. Any program or activity supervised by the Recreation Commission of the City of Woburn.
4. Non-commercial public speaking and public assembly activity conducted on private property, public space or public right of way, except those activities otherwise regulated by Subsection B.
5. Parades, public gatherings or sporting events for which the proper permits have been issued.
6. Emission of sound in the discharge of weapons or in fireworks displays from 8:00 a.m. until 12:00 midnight when licensed by the City.

7. Emergency vehicles, such as police, fire, ambulance or civil defense apparatus.
8. Devices as required by federal or state law.

C. Definitions.

In construing this Ordinance, the following words shall have the meanings herein given, unless a contrary intention clearly appears:

1. Background noise level - the ambient noise level which exists prior to or exclusive of the beginning of generation of a source of noise pollution and which would exist if said noise source were quieted and which does not include sound or noises which would qualify as noise pollution hereinafter defined.
2. City - the City of Woburn.
3. City agencies - any agency named directly or indirectly shall be agencies of the City of Woburn.
4. Construction and demolition - any site preparation, assembly, erection, substantial repair, alteration, destruction or similar action for public or private rights of way, structures, utilities or similar property.
5. Electronic devices - any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or other similar device.
6. Emergency - any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
7. Emergency work - any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
8. Motorcycle - any unenclosed motor vehicle having two or three wheels in contact with the ground, including but not limited to, motor scooters, minibikes and mopeds, and so-called "dirt-bikes" and other off-road motorcycles.
9. Motor vehicles - any vehicle which is propelled or drawn on land by a motor, such as passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies or racing vehicles, but not including motorcycles.
10. Noise pollution - a condition caused by a noise source that increases noise levels ten(10) decibels measured on the A-Weighted system (dB(A)) or more above background noise levels, except that if the noise source produces a tonal sound, an increase of five(5)dB(A) or more above background noise levels at any time of the day or night it shall be deemed sufficient to cause noise pollution.
11. Person - an individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau, agency or any entity

recognized by law as the subject of rights and duties, including the City and its agencies and departments, and any person as herein defined operating under a contractual agreement or other agreement with the City.

12. Tonal sound - any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

D. Time Restrictions.

1. All electric motors and internal combustion engines employed in yard or garden maintenance shall be prohibited from use on Sunday through Thursday evenings from 9:00 p.m. until 7:00 a.m. the following morning, and on Friday and Saturday evenings from 9:00 p.m. until 9:00 a.m. the following morning.
2. All electric motors and internal combustion engines employed in outdoor construction, demolition or earth moving shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, without permit issued by the Board of Health allowing such operation, except on Sunday when all such devices shall be prohibited from operating at any hour without a permit issued by the Board of Health in accordance with the provisions of Subsection F, unless declared emergency work pursuant to Subsection B(1).
3. All public address loudspeakers, either mobile or stationary, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning, except when in use by emergency services personnel in the performance of duty, or by permit issued by the Board of Health pursuant to Subsection F.
4. No automobile, motorcycle, truck, or vehicle-mounted refrigeration equipment shall be left running within three hundred (300) feet of a dwelling, hotel or residence for a period of greater than five (5) minutes, except when in traffic or when in the control of a garage, service station or similar facility for repairs, maintenance or safety inspection.
5. No person shall cause, allow, suffer or permit the unnecessary foreseeable idling of a diesel locomotive for a continuous period of time longer than thirty (30) minutes. This regulation shall not apply to locomotives being serviced, provided that the idling is essential to the servicing.

E. Noise Sources Causing Noise Pollution.

1. No person shall willfully, negligently or through failure to provide necessary

equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source owned, leased, kept or controlled by such person, or caused by any activity of such person, its agents, employees or servants.

2. When the offending noise source is located in public spaces, noise measurements shall be made at and noise pollution determinations made in relation to any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at and noise pollution determinations made in relation to the boundary line of the property within which the offending source is located, or as close thereto as feasible.

F. Specific Prohibitions.

1. It is the intent and purpose of this Section to prevent excessive noise and to limit, control and eliminate excessive noise in general and from whatever source. Nothing in this Ordinance shall be construed as limiting the rights of any person to seek redress in a court of law or equity for any injury to a person or damage to real or personal property caused by excessive noise.
2. The following noise sources are hereby declared noise pollution and forbidden:
 - a. Horns, signaling devices - the sounding of any horn or signaling device on any motor vehicle, except as a danger warning or in an emergency, the creation by means of any such signaling device of an unreasonably loud or harsh sound, and the sounding of any such signaling device for an unnecessary and unreasonable period of time.
 - b. Defect in vehicle or load - the use of any motor vehicle or motorcycle so out of repair, loaded in such a manner or with material of such nature as to create loud and unnecessary grating, grinding, rattling or other noise.
 - c. Loading, unloading, opening boxes - the creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening or destruction of bales, boxes, crates or containers, without exercising reasonable care to limit such noise and to confine the same.
 - d. Construction, repairing of buildings – the erection (including excavation), demolition, alteration or repair of any building at any time other than between 7:00 a.m. and 9:00 p.m. on any day except Sunday, unless a permit is obtained from the Board of Health pursuant to Subsection F.
 - e. Transportation of materials - the transportation of rails, pillars or columns of iron, steel or other material, upon a motor vehicle or in any manner so loaded as to cause loud noises or as to disturb the peace and quiet of a neighborhood.

G. Permits for Exemption and Extensions of Time

1. The Board of Health may grant a permit for any activity otherwise forbidden by the provisions of this Ordinance upon a determination by the Board of Health that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity, or upon the community, taking into account the extent of noise pollution caused by not requiring compliance. The Board of Health shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the Board of Health deems appropriate. Copies of all such permits shall be filed with the Clerk of the City Council and the Board of Health promptly after issuance.
2. The Board of Health may extend to a specified date the time for compliance with this Ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance.
3. No such extension shall be granted which has the effect of exempting such activity from compliance with this Ordinance. The Board of Health shall establish appropriate procedures for the processing of requests from such extension of time, including such hearings as the Board of Health deems appropriate.

G. Judicial Review.

Any person aggrieved by the grant or denial of a permit pursuant to Subsection F or an extension of time pursuant to Subsection F may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

H. Penalties.

1. Violation of any of the provisions of this Ordinance shall constitute a misdemeanor. If a person is deemed to be in violation, he shall be notified in writing that he is in violation and shall be allowed a reasonable period of time to come into compliance. If the allotted time period has elapsed and the person has failed to come into compliance, he shall be tried in the District Court and if convicted, fined in an amount not to exceed three hundred (\$300.00). Each day such violation continues shall be considered a separate offense.
2. Notwithstanding the foregoing, any alleged violation of any of the provisions of this Ordinance may, in the sole discretion of the Board of Health, be made

the subject matter of proceedings initiated by the Board of Health pursuant to the provisions of M.G.L. Chapter 40, Section 21D, that is, Non-Criminal Disposition. If the Board of Health so elects to proceed under said Ch. 40, sec. 21D, all the terms and provisions of such Chapter and Section shall thereafter govern said action.

I. Severability.

If any provision(s) of this Ordinance or the application of this Ordinance to certain circumstances shall be held to be invalid, the validity of the remainder of this Ordinance and the application of such provision to another person or circumstances shall not be affected thereby.

J. Enforcement.

The Board of Health shall be responsible for the administration and enforcement of this Ordinance, shall have the power to effect compliance by warning or order commanding necessary actions or forbearances, by issuing fines consistent with this Ordinance or by initiation of appropriate legal proceedings in a court of competent jurisdiction, shall investigate complaints about excessive noise, make observations and maintain necessary surveillance. The Police Department shall cooperate and assist the Board of Health to insure proper compliance with this Ordinance. (Prior Ch. 25, sec. 9(A, B, C, D); new Ord. dated 05/18/88).

9-3 Ball playing in streets.

No person shall in any street or on any dedicated memorial area play ball, throw stones or shoot with or use a bow and arrow or sling. (Prior Ch. 25 9(E)).

9-4 Penalty for violation.

Any violation of the provisions of Section 9-1 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K) (part)).

9-5 - 9-7 [Reserved]

II. OFFENSES AGAINST PUBLIC DECENCY

9-8 Nude swimming or bathing in certain waters.

No person shall swim or bathe in nude state in any waters within the city so as to be visible from any dwelling house or street therein. (Prior Ch. 25, sec. 5(B)).

9-9 Urination and exposure of person in street.

No one shall urinate in or upon any public street, way or place within the city in such a manner as to expose his person. (Prior Ch. 25 , sec. 5(C)).

9-10 Games of chance.

No person shall expose in any street or public place any game or device of any kind intended for playing a game of hazard or chance; and no person shall play such a game or any unlawful game in any street or public place. (Prior Ch. 25, sec. 5(F)).

9-11 Drinking liquor on public property.

- A. No person shall drink any alcoholic beverages as defined in M.G.L. c. 138, § 1, or possess an open container full or partially full of any alcoholic beverages while on, in, or upon any public way, upon any way to which the public has right of access, in any place to which members of the public have access as invitees or licensees, in any park or playground, conservation area, or recreation area, except as otherwise authorized by the issuance of a special event permit from the City Council or Recreation Commission, and the issuance of a special one-day alcoholic beverage license by the License Commission in accordance with M.G.L. c.138, §14, or private land or place without consent of the owner or person in control thereof. Under no circumstances shall any person sell, serve, or consume alcohol beverages on, in or upon any land or property under the jurisdiction of the School Department, publicly owned property adjacent to property under the jurisdiction of the School Department and property under the jurisdiction of the Conservation Commission, except for the Mayor's Annual Senior Dinner and neighborhood block parties adjacent to publically owned properties. (amended 7/19/2013)
- B. Any person convicted of violating this section shall be punishable by a fine not exceeding two hundred dollars for each offense. (Prior Ch. 25 , sec.9(I)).

9-12 Window peeping.

No person, except an officer of the law in performance of his duties, shall enter upon the premises of another with intention of peeping into the windows of a house or of spying upon in any manner any person or persons therein. Whoever violates this section may be arrested without a warrant by a police officer and detained in jail, or otherwise, until a complaint can be made against him for the offense. (Prior Ch. 25, sec. 9(J)).

9-13 Penalty for violation.

Any violation of the provisions of Sections 9-8 through 9-10 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K)(part)).

III. OFFENSES PERTAINING TO PROPERTY

9-14 Throwing snowballs, stones, etc., on streets.

No person shall, in any public way, throw any snowball, stone or other substance, or engage in any amusement, game, or exercise, interfering with the free, safe and convenient use of such public way. No person shall promote or encourage the fighting of birds or animals in any public way. (Prior Ch. 25, sec. 5(A)).

9-15 Making of indecent figures or writing obscene words, etc.

No person shall make any indecent figures, or write any indecent or obscene words upon, or wantonly mar, injure, deface, or destroy any building, fence, wall, guidepost, signboard, awning, lamppost, pole, lamp, or lantern in any public way. (Prior Ch. 25, sec. 5(D)).

9-16 Trespass--Delivery personnel to use walkway.

- A. No person without lawful authority, or without the express or implied consent of the owner or his agent, shall enter any building or enter on any enclosed or improved real estate, lot or parcel of ground in the city; or, being upon the land of another, shall fail, or refuse to leave the same when requested to do so by the person lawfully in possession thereof, his agent or representative; or deposit on the premises of another, or remove therefrom any material, substance, earth, dirt, ashes, refuse, turf or other article or thing whatsoever.
- B. Provided further, all delivery personnel, including letter carriers, whether employed by a private firm or government agency or government-supported corporation shall use sidewalks and accepted and approved walkways and shall refrain from traversing lawns or other private property not normally used as a walkway by the general public in order to effect delivery. (Prior Ch. 25, sec. 5(H)).

9-17 Posting of handbills and signs.

- A. Posting of Handbills, etc., Upon Buildings, Walls, etc., Prohibited Without Permit. No person shall post any placard, handbill, poster, or notice upon any building, tree, tree-guard, fence, or any other thing, without the consent of the owner, agent, or occupant, nor upon any buildings, wall, fence, tree, or tree-

guard belonging to the city without a permit from the superintendent of public works.

B. Political Signs.

1. Definition - A political sign is a sign designed, used or intended to induce voters to vote for either the passage or defeat of a measure appearing on the ballot of any election, or for either the election or defeat of a candidate for nomination or election to any public office in any election, and includes without limitation banners, campaign signs, posted handbills and notices of any kind.
2. Time limitations - Political signs may be displayed in connection with an election beginning no earlier than thirty days prior to the primary or preliminary election and continuing up to five days after the date of the election. If election signs pertain not only to a primary or preliminary election but also to a succeeding general election, they may be displayed until the general election and shall be removed within five days after the date of the general election.
3. Signs on private property - Political signs erected on private property shall be no larger than four (4) square feet in area. No person shall erect or display, or cause or authorize any person to erect or display, any election sign on any property not owned or controlled by such person, unless authorized to do so by the owner or other person in control of such property.
4. Prohibited on public property - No person shall erect or display, or cause or authorize any person to affix, erect, display, place or post any political sign on any public property or utility pole or within a public right-of-way, on traffic signs, signals, or devices including directional signs, advisory signs, regulation signs and traffic-signalized intersections, or where signs may be obstructed from the driver's view. Election signs on public property may be removed without notice by members of the Police Department or the Department of Public Works. The Chief of Police or the Superintendent of Public Works, as the case may be, shall cause a list of election signs removed from public property to be filed with the City Clerk for public information. The City Clerk shall retain such lists for a period of thirty (30) days following the general election or until any litigation is concluded.
5. Traffic hazards - No political sign shall be placed in a manner that would obstruct visibility to pedestrian or vehicular traffic or which shall constitute a traffic hazard in the discretion of the Chief of Police or his subordinate officers.

(Added 6/19/2000)

C. Portable Signs.

1. Portable sign: Any sign not permanently attached to the ground or a building.
2. Portable or wheeled signs are prohibited on public ways and on public property. This shall not be interpreted to prohibit lettering on motor vehicles or buses traveling on a public way.
3. Any portable sign that is being transported or driven within or through the city shall not be illuminated with lighting fixtures that are not factory installed lighting fixtures, such as head lights and tail lights.

(Added 4/6/2007)

D. Signs on Woburn Common

No unattended sign shall be affixed, erected or placed in any manner for any length of time on any portion of the area commonly referred to as Woburn Common, and further including the sidewalks immediately contiguous thereto, or on any post, pole, tree or other structure of any type or nature on said Common or contiguous sidewalks.

This Ordinance shall not be construed so as to apply to:

1. Hand-held, hand-carried, or other actively attended signs;
2. Traffic, directional, or public safety signage erected by the City of Woburn;
3. Government or military service flags, historical signs and markers, "Welcome to Woburn" signs, or titles or lettering on monuments.

This Ordinance shall also not prohibit the Mayor from authorizing signs expressing seasonal greetings or signs associated with seasonal community events, which events utilize the Common.

Violations of this Section 9-17D shall be enforced by the penalty established under Section 1.17 herein. Each sign in violation and/or each day of such violation shall constitute and be considered a separate violation.

(Added 11/30/2010)

9-18 Litter.

- A. No person in any public way, public alley or other public place shall, whether in or upon a vehicle or on foot, deposit, drop, or throw upon such way, alley or place

- B. upon any roadway or walk thereof, and suffer to remain there, any filth, rubbish, wrapping paper or other substance unless it is deposited, dropped or thrown into a receptacle provided for the purpose by the city.
- C. Violation--Penalty. For violation of this section there shall be a two hundred dollar fine for the first offense, and a three hundred dollar fine for second and subsequent offense.
- D. The superintendent of public works shall set up a general rubbish pickup week, for bulky rubbish, in every ward in the city, and this shall be done every other year. (Ord. of 4/5/84; prior Ch. 25, sec. 7).
- E. No person shall sell, distribute or use a self-contained propellant shot out of a can during a parade within the boundaries of the City. Each violation shall be subject to a penalty of \$200.00, and such product and its container shall be considered "Litter". (Added by Ord. dated 08/15/90).
- F. Sale of Spray Paint to Minors:
 - a. No person shall knowingly sell to any child under eighteen (18) years of age any aerosol container of paint capable of defacing property.
 - b. For purposes herein, bona fide evidence of majority, identity of majority and identity of the person is a document issued by a federal, state, county or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operators license, a registration certificate issued under the Federal Selective Service Act (50 App. U.S.C. *451 et seq.), identification card issued to a member of the Armed Forces or a birth certificate. Proof that the defendant, or his employee or agent, demanded, was shown and acted in reliance upon such bona fide evidence in any sale transaction forbidden hereby, shall be a defense to any criminal prosecution therefor.
 - c. Any person who owns, manages or operates a place of business wherein aerosol containers of paint capable of defacing property are sold shall conspicuously post notice of this law in such place of business in letters at least one inch (1") high.
 - d. Any person violating the provisions of this ordinance shall be fined not less than fifty dollars (\$50.00) for each offense.

Possession and Manufacture of Spray Paint by Minors:

- a. It shall be illegal for any person under eighteen (18) years of age to possess

and manufacture any aerosol container of paint capable of defacing property, unless otherwise accompanied by a parent or legal guardian.

- b. Any person under the age of eighteen (19) found violating the provisions of this ordinance shall be fined not less than fifty dollars (\$50.00) for each offense.
- c. Possession shall be defined as having on or about a person, spray propellant type paint unless otherwise accompanied by a parent or legal guardian. (Ord. 2/4/94).

9-19 Water.

- A. Watering Street Regulated. No person shall water any public way by or with a watering cart, without a license from the superintendent of public works, subject to such conditions as may be prescribed by said superintendent.
- B. Shedding of Water from Building to Street Prohibited. No person shall suffer his or her building to shed water on any public way. (Prior Ch. 25, sec. 8).

9-20 Penalty for violation.

Any violation of the provisions of Sections 9-14 through 9-16 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K)(part)).

IV. CURFEW

9-21 Loitering--Authority to invoke curfew.

- A. The chief of the police department, or the officer in charge may invoke this section whenever he deems it in the best interest of public safety.
- B. No person shall loiter, or remain upon any street, highway, public off-street parking lot or other outdoor public place in the city, in groups of two or more after the hour of ten p.m., unless attending a lawful assembly or function, in which case this time limit shall be extended to the time said assembly or function terminates. This curfew may be imposed in part or in all parts of the city as deemed necessary for the public safety.
- C. If the curfew is imposed through the city it shall need the sanction of the mayor. The city council shall have the authority to revoke or modify any such curfew. (Prior Ch. 25, sec. 5(G)).

9-22 Penalty for violation.

Any violation of the provisions of Section 9-21 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K) (part)).

V. SMOKING

9-23 Prohibited at public meetings.

No person shall smoke, either pipe, cigar or cigarette, at any public meeting of any city board, commission, committee, council, or subcommittee thereof, established under or by the city Charter or this code. The penalty shall be as provided in Section 1-17. (Ord. dated 12/2/86: prior Ch. 1, sec. 10).

9-24 Free Standing Cigarette Vending Machines.

No individual or company shall install or cause to have installed within the City of Woburn, any Free Standing Vending Machines, the purpose of which is the dispensing of cigarettes. (Ord. dated 2/7/95).