

# ORDINANCE # 34

## TOWN OF HANOVER

### ORDINANCE OF THE BOARD OF SELECTMEN

The Town of Hanover ordains as follows:

## REGULATION OF OUTDOOR ACTIVITIES

1. **DECLARATION OF PURPOSE:**

This Ordinance regulates outdoor activities that may result in the substantial disruption of traffic flow or may generate significant noise. This includes such activities as large outdoor events open to invitees or the general public; private parties; parades or foot races; blocking of roads, sidewalks or access to structures; fireworks; or any other activity which may result in substantial production of noise, involve traffic-related problems, lead to a public disturbance or public nuisance or endanger public health, safety or welfare.

Amended 6/19/06

2. **TITLE:**

This ordinance shall be known and may be cited as "Regulation of Outdoor Activities Ordinance of the Town of Hanover."

3. **AUTHORITY:**

RSA 31:39, I(n). The Town of Hanover will also enforce RSA 644:2, Disorderly Conduct, in addition to this ordinance. Specifically, "a person is guilty of disorderly conduct if he/she purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly 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..."

4. **DEFINITIONS:**

A. **Noise Disturbance:** Any sound, whether a continuous sound or an impulse noise, which is loud or unreasonable and which disturbs a reasonable person with normal sensitivities.

B. **Noisy Assembly:** A noisy assembly under this chapter means any gathering of more than one (1) person that creates a noise disturbance. Any such noise after the hour of 10:00 p.m. Sunday through Thursday; after 11:00 p.m. Friday and Saturday; after 12:00 a.m. (midnight) on Friday and Saturday of Dartmouth Homecoming, Winter Carnival, Green

Key and Graduation, and before the hour of 7:00 a.m., that is be plainly audible at the property line of a structure or building in which it is located or in the hallway or apartment adjacent, shall be prima facie evidence that the noise is excessive.

- C. **Person:** Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.
- D. **Undue Hardship:** Exists where it is unreasonable to require the applicant to conduct the regulated activity during the hours permitted under the ordinance.
- E. **Sound Amplification Device or Equipment:** Any apparatus for the amplification of sound from any electronic device, band, orchestra or other sound-making or sound-producing device, including any apparatus for the amplification of the human voice.
- F. **Continuous Sound:** Any sound that exists, essentially without interruption, for a period of 10 minutes or more.
- G. **Impulse Noise:** Any noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.
- H. **Residential Property:** Any real property developed and used for human habitation which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.
- I. **Owner/Lessee:** Owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of the premises, a device or an apparatus.
- J. **Outdoor Activity:** Any outdoor activity, event , gathering or function that may result in substantial production of a noise disturbance or disruption of the normal flow of activities, involve traffic-related problems, lead to a public disturbance or public nuisance, or endanger public health, safety or welfare including but not limited to: large outdoor activities to which invitees or the general public are invited; private parties; parades or foot races; blocking of roads, sidewalks or access to structures, fireworks; the use of sound amplifying devices on a street, sidewalk, park, public place, or in a private place which could be heard in another private or public place; or any activity which constitutes a noisy assembly.

5. **PERMIT:**

A. Application for a permit for an outdoor activity shall be made to the Town Manager. Any such permit granted by the Town Manager shall set forth all conditions pertaining to the outdoor activity, and a reasonable time limit for its conclusion. An application for an Exception granting relief from the provisions of this ordinance on the basis of undue hardship may be made to the Town Manager. Any such Exception granted by the Town Manager shall set forth all conditions pertaining to the specified noise, and a reasonable time limit for its abatement.

B. Process:

a. Registration Statement: Any Person who wants to engage in an outdoor activity shall file a Registration Statement, on a form prescribed by the Town of Hanover, requesting a Permit from the Town Manager no less than five (5) days prior to the date on which the outdoor activity is to be conducted (Attachment I). The Registration Statement shall contain the following information:

1. The name, address and telephone number of the person who seeks the outdoor activity permit;
2. The hours when, and the location where, such outdoor activity shall be conducted;
3. The streets, sidewalks, or access to structures that will be blocked and for how long;
4. The route of any parade or foot race and what controls will be in place, whether public or private, with a map of same;
5. Whether a sound amplifying device or musical instrument will be operated;
6. Whether the sound amplifying device or musical instrument will be used for commercial or noncommercial purposes;
7. Where fireworks are to be used, the name of the fireworks company and the liability insurance carrier;
8. Any other information that the Town Manager, Chief of Police, Fire Chief, Zoning Administrator, Public Works

Director or any other town department head deems necessary.

b. Permit: An approved certified copy of the Permit shall be returned to the applicant within a reasonable period of time unless it was found that:

1. The conditions of motor vehicle or pedestrian movement are such that the outdoor activity permit would constitute an unreasonable detriment to traffic or pedestrian safety; or
2. The Registration Statement reveals that the applicant would not be able to comply with the Standards of Issuance; or
3. The information contained in the Registration Statement is false or nonexistent in any material detail.

c. Standards of Issuance:

1. The outdoor activity will be in compliance with the provisions of all applicable ordinances, laws and regulations;
2. The outdoor activity will not create an undue hardship for an abutter or the general public;
3. The applicant shall be responsible for the payment of a police coverage deemed necessary by the Chief of Police as authorized by RSA 105:9; and
4. The applicant will be responsible for any clean up services deemed necessary by the Director of Public Works.
5. The Town reserves the right to withdraw the permit for the outdoor activity at the discretion of the Chief of Police or his designee based on complaint and due consideration of the circumstances. Circumstances that shall warrant consideration permit revocation include: 1) violation of conditions of the permit; 2) disorderly conduct; or 3) a health or safety emergency requiring curtailment of the event.

d. Appeal Procedure:

1. Any Person aggrieved by a denial or issuance of a Permit shall have the right to file a request with the Town Manager, in writing, that the Town Manager reconsider the denial or issuance. The Town Manager shall act upon the request immediately after its receipt. The Town Manager's decision on reconsideration may be appealed to the Board of Selectmen, in writing, which may reverse, affirm or modify in any regard the determination of the Town Manager.

e. Late Applications:

1. The Town Manager, where good cause is shown therefore, shall have the authority to approve any Registration Statement hereunder that is filed less than five (5) days before the date such Outdoor Activity is proposed to occur.

f. Possession and Display of Permit:

1. The Permit a person receives shall be kept at all times, where it can be readily obtained and promptly shown to any police officer of the Town of Hanover.

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6. **EXCLUSIONS:**

These requirements shall not apply where such matters are governed by State Law.

7. **PENALTIES:**

- A. Any person who fails to obtain a permit for an outdoor activity, or who disregards or otherwise fails to abide by the conditions of a permit shall be guilty of a violation, and upon conviction thereof, shall be penalized by a fine of not more than \$300 for the first violation, \$500 for the second, and \$1,000.00 for third and subsequent violation thereafter.
- B. Any person who participates in a Non-Permitted Outdoor Activity shall be guilty of a violation and upon conviction thereof, shall be penalized by a fine of not more than \$300 for the first violation, \$500 for the second, and \$1,000.00 for third and subsequent violation thereafter. Prior to any

enforcement against persons for participating in an Non-Permitted Outdoor Activity, a Town Official or Police Officer shall inform them that the activity has not been permitted, and that it is a violation of the ordinance to remain and participate in the activity, and afford them reasonable time to depart or cease.

Pursuant to RSA 502-A:11-a, the District Court shall have jurisdiction of the prosecution of any violation of the Town of Hanover Ordinances. All fines collected shall be for the use of the Town. The enforcement authority may issue a summons and complaint along with a notice of fine pursuant to the procedures for pleas by mail set out in RSA 502-A:19-b.

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8. **SEVERABILITY:**

If any provision of this ordinance is held to be unconstitutional or otherwise invalidated by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

9. **EFFECTIVE DATE:**

Having held a public hearing, the Board of Selectmen voted to adopt this Ordinance on the 3<sup>rd</sup> day of June 2002, which shall be the effective date hereof.

IN WITNESS WHEREOF, a majority of the Board of Selectmen have hereunder set their hands.

TOWN OF HANOVER  
BOARD OF SELECTMEN

\_\_\_\_\_  
Brian F. Walsh, Chair

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Katherine S. Connolly, Vice Chair

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William R. Baschnagel

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Judson T. Pierson, Jr.

Peter L. Christie, Secretary

**TOWN OF HANOVER**  
**REGULATION OF OUTDOOR ACTIVITIES ORDINANCE**  
**ORDINANCE #34**

Date of Notice as to Posting and Publication: June 18, 2002 / June 20, 2002

Date of Public Hearing: November 19, 2001

Date of Adoption: June 3, 2002

Date of Notice of Adoption and Effective Date: June 3, 2002

Date of Recording in the Town Records: \_\_\_\_\_

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Sallie B. Johnson, Town Clerk

Date of Approval by Town Legal Counsel as to Form and Authority: \_\_\_\_\_

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