



CITY OF GRAND FORKS

P.O. BOX 12909
GRAND FORKS, NORTH DAKOTA 58208-2909

OFFICE OF CITY ATTORNEY

E-MEMORANDUM

TO: Maureen Storstad, Director of Finance mstorstad@grandforksgov.com
CC: Mark Nelson, Police Chief mnelson@grandforksgov.com
FROM: Howard D. Swanson, City Attorney nswanson@swlawltd.com
RE: Ordinance amending noisy party ordinance
DATE: June 5, 2019

I have attached a draft Ordinance dated May 7, 2019 regarding the change of the ordinance establishing an offense for a noisy party or gathering. The essence of this Ordinance is to remove a violation for noisy party from a criminal offense (misdemeanor) to a noncriminal offense (infraction). It also establishes a fine of \$300 for the first offense and, if a person violates the offense a second time within any 12 month period, the fine shall be between \$300 and \$1,000 per offense, at the court's discretion.

Although the Ordinance appears to be in proper order currently, we would likely need to make additional modifications to the ordinance after August 1, 2019. House Bill 1050 changed how infractions are to be treated if an individual has two previous convictions of the same offense. In that case, it would then be charged out as a Class B misdemeanor rather than an infraction.

This Ordinance may be presented to the Council at its next Committee of the Whole meeting.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

HDS/gkf
Attachment: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 9-0110 OF THE GRAND FORKS CITY CODE RELATING TO NOISY PARTY OR GATHERING AND ADOPTING SECTION 9-0206 RELATING TO NOISY PARTIES AND AMENDING SECTION 9-0503 REGARDING PENALTIES FOR SPECIFIED OFFENSES

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND FORKS, NORTH DAKOTA, PURSUANT TO THE HOMERULE CHARTER OF THE CITY OF GRAND FORKS, NORTH DAKOTA, THAT:

SECTION I. REPEALING CLAUSE.

Section 9-0110 of the Grand Forks City Code relating to noisy party or gathering is, in all things, hereby repealed.

SECTION II. ADOPTING CLAUSE.

Section 9-0206 of the Grand Forks City Code relating to noisy party or gathering is hereby adopted to provide as follows:

9-0206. - Noisy party or gathering.

- (1) No person shall participate in any party or gathering consisting of two (2) or more people when said party or gathering gives rise to unreasonable noise likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area, in consideration of the time of day and the residential character of said area or building.
- (2) When a law enforcement officer determines that a gathering is creating such a noisy disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave the premises after being told by a police officer to do so.
- (3) Every owner of such premises, or tenant in charge of such premises, who has knowledge of the disturbance shall cooperate with such police officer and shall make reasonable efforts to stop the disturbance.
- (4) The following shall be prima facie evidence in any prosecution under this section of the owner's or tenant's violation of this section.

- (A) As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, any law enforcement agency is called upon to enforce the terms of this section either by citizen complaint or by personal investigation of a police officer.
 - (B) As to the owner if the owner does not reside at the premises, if after the owner receives written notice of three (3) violations of this section by the owner's tenant at any premises owned by the owner in the City of Grand Forks within a six-month period, and after receipt of such written notice, the Grand Forks Police Department is called upon to enforce this section either by citizen complaint or by personal investigation of a police officer.
 - (C) Noise of such volume so as to be clearly audible at a distance of fifty (50) feet from the structure, or building in which the party or gathering is occurring, or in the case of apartment buildings in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this section.
- (5) For the purposes of this section, "premises" shall mean:
- (A) The building actually leased or owned by the person occupying the leasehold or real estate;
 - (B) The appurtenant lot and outbuildings of said leasehold or real estate; and
 - (C) The common entryways and exit ways of said leasehold or real estate whether or not these ways are privately controlled or commonly available to other tenants.

SECTION III. AMENDING CLAUSE.

Section 9-0503 of the Grand Forks City Code relating to penalties for specified offenses is hereby amended to provide as follows:

9-0503. - Penalties for specified offenses.

- (1) Any person violating the provisions of 9-0103 pertaining to shoplifting shall, upon conviction, be subject to a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days or by both such fine and imprisonment in the discretion of the court.
- (2) Any person violating the provisions of 9-0126 pertaining to destruction of public/religious property shall, upon conviction, be subject to a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days or by both such fine and imprisonment in the discretion of the court.

- (3) Any person violating the provisions of 9-0217(3) pertaining to tobacco vending machines, shall, upon conviction, be subject to a penalty fine of five hundred dollars (\$500.00). Each day that a violation is permitted to exist shall constitute a separate punishable offense.
 - (4) Any person violating the provisions of 9-0217(4) pertaining to sale or distribution of tobacco products to a minor, shall, upon conviction, be subject to a penalty fine of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00).
 - (5) Any person violating the provisions of 9-0217(5) pertaining to minor possession of tobacco products, shall, upon conviction, be subject to a penalty fine of seventy dollars (\$70.00).
 - (6) Any person violating section 9-0218 pertaining to juvenile curfew, shall be subject to a fine of eighty dollars (\$80.00).
 - (7) Any person violating the provisions of section 9-0303 pertaining to depositing litter shall, upon conviction, be subject to a penalty fine of five hundred dollars (\$500.00) per offense.
 - (8) Any person, firm or corporation violating section 9-0304 pertaining to uncovered vehicles hauling trash and who does not immediately remedy the violation shall be subject to a penalty fine of not less than one hundred fifty dollars (\$150.00) nor more than five hundred dollars (\$500.00) for each offense and a separate offense shall be deemed committed on each day or fraction thereof that such violation occurs or continues; provided, however, no portion of any fine levied hereunder shall be suspended.
 - (9) Any person violating section 9-0309 pertaining to unauthorized entry into posted property, shall be guilty of an infraction and, upon conviction, shall be subject to a penalty fine of not less than one hundred dollars (\$100.00) per offense, or more than five hundred dollars (\$500.00) per offense.
 - (10) Any person violating section 9-0202 of the Grand Forks City Code relating to the prohibition of landing or takeoff of an aircraft in city limits shall be subject to a fine of five hundred dollars (\$500.00).
 - (11) Any person who violates Section 9-0204 relating to hosting events at which alcohol is consumed or possessed by persons under the age of twenty-one (21) shall be subject to a fine not to exceed one thousand five hundred dollars (\$1,500.00) per offense.
- iii} Any person who violates section 9-0206 relating to noisy parties or gatherings shall be subject to a fine in the amount of \$300.00, however, any person who violates such section a second time or more within any twelve (12) month period of time shall be subject to a fine of not less than \$300.00 nor more than \$1,000.00 per offense.

(+2-.Ll) The court shall have such power to suspend a sentence and to revoke the suspension thereof, except as otherwise provided herein.

SECTION IV. EFFECTIVE DATE

This ordinance shall be in full force and effect after passage and approval as provided by law.

Michael R. Brown, Mayor

ATTEST:

Maureen Storstad, Director
Finance & Administrative Services

- Introduction and first reading:
- Public Hearing:
- Second Reading and Final Passage:
- Approved:
- Published:

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GRAND City of Grand Forks
FO **Staff Report**

Committee of the Whole - April 22, 2019 and June 10, 2019
City Council - ~~May 6, 2019~~

Agenda Item: Noisy Party or Gathering Ordinance Discussion

Prepared By: Todd Feland, City Administrator
Submitted By: Council Member Danny Weigel

Staff Recommended Action: Consider proposed changes to the *Grand Forks City Code Section 9-0110(1) - Noisy Party or Gathering* as noted in the attached City Council Member Weigel email with the attached suggested changes to the current ordinance, subject to further review and approval of the City Attorney.

Committee Recommended Action: 04/22/2019 - Consensus to refer to City Attorney for research and drafting of ordinance
6/10/2019- Held at Committee of the Whole for 7/8/2019 meeting.
7/08/2019-Held at Committee of the Whole until further notice.

Council Action:

BACKGROUND:

Based on City Council Member and citizens feedback, City Council Member Weigel is proposing changes to *Grand Forks City Code Section 9-0110(1) Noisy Party or Gathering*. The general changes would provide that a first offense be considered an infraction, subject to fine of no less than \$300.00, and be administered in Municipal Court. A second offense of the same individual(s) within a year of an offense would elevate the additional offense to a Class B Misdemeanor.

FINDINGS AND ANALYSIS:

- See noted and proposed changes to *Grand Forks City Code Section 9-0110(1) Noisy Party or Gathering* from City Council Member Weigel as attached.

SUPPORT MATERIALS:

- *Grand Forks City Code Section 9-0110-Noisy Party or Gathering*.
- Email memorandum from City Council Member Weigel dated April 17, 2019 regarding Noisy Party Ordinance with attached suggested ordinance changes.

9-0110. - Noisy party or gathering .

- (1) No person shall participate in any party or gathering consisting of two (2) or more people when said party or gathering gives rise to unreasonable noise likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area, in consideration of the time of day and the residential character of said area or building.
- (2) When a law enforcement officer determines that a gathering is creating such a noisy disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave the premises after being told by a police officer to do so.
- (3) Every owner of such premises, or tenant in charge of such premises, who has knowledge of the disturbance shall cooperate with such police officer and shall make reasonable efforts to stop the disturbance .
- (4) The following shall be prima facie evidence in any prosecution under this section of the owner's or tenant's violation of this section .
 - (A) As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, any law enforcement agency is called upon to enforce the terms of this section either by citizen complaint or by personal investigation of a police officer .
 - (B) As to the owner if the owner does not reside at the premises, if after the owner receives written notice of three (3) violations of this section by the owner's tenant at any premises owned by the owner in the City of Grand Forks within a six-month period, and after receipt of such written notice, the Grand Forks Police Department is called upon to enforce this section either by citizen complaint or by personal investigation of a police officer .
 - (C) Noise of such volume so as to be clearly audible at a distance of fifty (50) feet from the structure, or building in which the party or gathering is occurring, or in the case of apartment buildings in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this section .
- (5) For the purposes of this section, "premises" shall mean:
 - (A) The building actually leased or owned by the person occupying the leasehold or real estate;
 - (B) The appurtenant lot and outbuildings of said leasehold or real estate; and
 - (C) The common entryways and exit ways of said leasehold or real estate whether or not these ways are privately controlled or commonly available to other tenants.

(Ord . No. 3546, § 2, 9-18-95; Ord . No. 3589, § 1, 5-20-96; Ord. No. 3807, § 1, 8-2-99; Ord. No. 4113, § 1, 1-3-06)

Feland, Todd

From: Weigel, Daniel
Sent: Wednesday, April 17, 2019 12:47 PM
To: Feland, Todd
Subject: Noisy Party Ordinance
Attachments: Noisy Party Ordinance .docx; ATIOOOOI.htm

Good Afternoon Todd,

I have attached a copy of the proposed ordinance for the change to the noisy party statute. Currently the noisy party ordinance says that a violation is a B-Misdemeanor (criminal offense). I would like to change this to an infraction which carries a \$300.00 fine in municipal court for the first violation. If a person received a second citation within one year from their first one it would then turn into a criminal B-Misdemeanor and would also stay with municipal court. This currently has support from multiple people on the council as well as other citizens. If you need any other information please let me know.

9-0110. - Noisy party or gathering.

[SHARE LINK TO SECTION](#) [PRINT SECTION](#) [DOWNLOAD \(DOCX\) OF SECTION](#) [EMAIL SECTION](#) [COMPARE VERSIONS](#)

(1)

and be subject to a fine of no less than \$300.00 unless decided otherwise by the municipal judge. If a second violation occurs to the same individual within one year from the date of the 1st offence this violation will be elevated to a class B-Misdemeanor.

on

(2)

When a law enforcement officer determines that a gathering is creating such a noisy disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring to disperse immediately. No person shall refuse to leave the premises after being told by a police officer to do so. This will remain a class B-Misdemeanor.

(3)

Every owner of such premises, or tenant in charge of such premises, who has knowledge of the disturbance shall cooperate with such police officer and shall make reasonable efforts to stop the disturbance.

(4)

The following shall be prima facie evidence in any prosecution under this section of the owner's or tenant's violation of this section.

(A)

As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, any law enforcement agency is called upon to enforce the terms of this section either by citizen complaint or by personal investigation of a police officer.

(B)

As to the owner if the owner does not reside at the premises, if after the owner receives written notice of three (3) violations of this section by the owner's tenant at any premises owned by the owner in the City of Grand Forks within a six-month period, and after receipt of such written notice, the Grand Forks Police Department is called upon to enforce this section either by citizen complaint or by personal investigation of a police officer.

(C)

Noise of such volume so as to be clearly audible at a distance of fifty (50) feet from the structure, or building in which the party or gathering is occurring, or in the case of apartment buildings in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this section.

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For the purposes of this section, "premises" shall mean:

(A)

The building actually leased or owned by the person occupying the leasehold or real estate;

(B)

The appurtenant lot and outbuildings of said leasehold or real estate; and

(C)

The common entryways and exit ways of said leasehold or real estate whether or not these ways are privately controlled or commonly available to other tenants.