

**AN ORDINANCE TO AMEND CHAPTER 60, DISORDERLY CONDUCT,
OF THE MUNICIPAL CODE OF THE TOWN
OF HENLOPEN ACRES, DELAWARE, SECTIONS 60-1 THROUGH 60-4**

WHEREAS, in the interest of maintaining orderly conduct, the Mayor and Commissioners desire to amend Chapter 60, Disorderly Conduct, of the Henlopen Acres Municipal Code.

BE IT ORDAINED by the Commissioners of the Town of Henlopen Acres, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

Section 1. Chapter 60 of the Municipal Code of the Town of Henlopen Acres, Delaware, as amended be and the same is hereby further amended by making insertions as shown by underline and deletions as shown by strikethrough as follows:

§ 60-1 Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISORDERLY HOUSE

- A. Any person, persons, occupant, owner or lessee who knowingly permits a disorderly house shall be deemed guilty of a violation and shall be fined in accordance with Chapter 60 of the Town Code.
- B. For the purposes of this Chapter, a disorderly house shall be deemed to constitute a nuisance and is a house, or structure or premises wherein the occupants engage in or cause any of the acts described in Section 60-2.

~~DWELLING UNIT USED FOR DISORDERLY OR OTHER DISRUPTIVE CONDUCT~~

~~Any dwelling unit located within the Town of Henlopen Acres, the occupants, users or persons in lawful possession of which engage in any of the conduct proscribed by § 60-2 of this article. As used in this article, "dwelling unit" shall include not only the structure itself but also the lands and ways, if any, under control of the person(s) in lawful possession.~~

OCCUPANT AND/OR USER

Any person(s) occupying or present on a premises.

~~PERSON(S) IN LAWFUL POSSESSION~~

~~Any person, firm, partnership, association or corporation (or any combination thereof) having legal possession of any premises in the Town of Henlopen Acres. The "person(s) entitled to legal possession" shall mean the owner in fee or of a life estate if the property is not under lease, or the ultimate lessee or sublessee if the property is under lease.~~

PREMISES

A dwelling unit, together with the lands and ways, if any, under the control of the person(s) in possession.

§ 60-2 ~~Unlawful acts by occupants and/or users.~~

Any person occupying or present on a premises who by himself or in concert with other occupants and/or users causes public inconvenience, annoyance or alarm to any other person or persons or who creates an unreasonable risk thereof by engaging in or causing any of the following conduct shall be violating this article:

~~A. Engaging in fighting or in violent, tumultuous or threatening behavior.~~

~~B. Making, creating or permitting any unreasonably loud, disturbing and unnecessary noise or making, creating or permitting any noise of such character, intensity or duration as to be detrimental to the life, health and welfare of any person or which disturbs, injures or endangers the comfort, repose, peace or safety of any individual. By way of example and not in limitation, the following shall be deemed to be unreasonably loud, disturbing and unnecessary noises:~~

~~(1) Playing any radio, phonograph, tape deck or musical instrument in such a manner or at such a volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any other dwelling unit.~~

~~[Amended 10-9-2015]~~

~~(2) The blowing of any horn, whistle or signal device, except as a danger signal, for an unreasonable and unnecessary period of time.~~

~~(3) Yelling, shouting or singing at such volume as to be plainly and disturbingly audible to the human ear outside the premises.~~

~~C. Making any offensive, coarse, obscene or profane utterance, gesture or display to another person or persons in such a manner as is likely to provoke a violent or disorderly response.~~

~~D. Obstructing or hindering the free and convenient passage of persons walking, riding or driving over, along or across any public way, sidewalk pavement, street or alley, including the boardwalk.~~

~~E. Engaging in any act of indecent exposure or public display of an obscene act or gesture.~~

~~F. Urinating in public view.~~

A. fighting, violent, tumultuous or threatening behavior, or,

B. unreasonable noise or offensive language, gestures or displays; or the addressing of offensive or abusive language to any person or persons, or,

C. obstructing vehicles or pedestrian traffic, or,

- D. refusing to comply with a lawful order of Town security or other duly authorized law enforcement officials, to cease and desist such offensive behavior or disturbance of the peace.
- E. As prescribed in the restrictions of the deed covenants, the airing or drying of clothes in front of the rear line of the dwelling or within sight from any street is prohibited. The term clothes shall include laundry, garments, linens, beach towels or blankets and similar articles.

~~§ 60-3 Unlawful acts by persons entitled to lawful possession.~~

- A. ~~Any person(s) entitled to lawful possession who, after notice as herein provided, allows, permits or fails to take affirmative action to prevent repeated violations of this article shall be deemed to be promoting the use of a dwelling unit for disorderly or other disruptive conduct in violation of this article.~~
- B. ~~A person(s) in lawful possession shall be presumed to have allowed, permitted or failed to take affirmative action to prevent repeated violations of this article where a violation of § 60-2 of this article occurs after such person entitled to lawful possession has, within the past three months, previously been provided actual notice by the security forces of the Town of Henlopen Acres or the Delaware State Police of a previous conviction for conduct proscribed by § 60-2 of this article.~~
- C. ~~"Actual notice" as used in Subsection B shall mean verbal or written notice to one or more of the person(s) entitled to legal possession. If written notice is attempted, it shall be deemed effective by mailing a written notice thereof to the person entitled to lawful possession at his last known address by certified mail, return receipt requested, with proper postage affixed. If such notice comes back undelivered (except refused), the Town shall exercise reasonable efforts to provide actual notice by some other means.~~

§ 60-43 Violations and penalties.

- A. Any occupant and/or user found guilty of violating § 60-2, subsections A, B, C, and/or D, of this article shall be fined not less than \$50\$100 and not more than \$150\$300 for the first offense and not less than \$100\$200 nor more than \$300\$500 for each subsequent offense, plus costs.
- B. ~~Any person(s) entitled to lawful possession found guilty of violating § 60-3 of this article shall be fined not less than \$100 nor more than \$300 for the first offense and not less than \$200 nor more than \$500 for each subsequent offense~~ Any violation of any provision of this chapter is declared to be a civil offense and is subject to the voluntary assessment and other procedures described in Chapter 55 of this Code. Any occupant and/or user violating §60-2, subsection E, of this article shall pay a civil assessment of \$50 for each offense.

Section 2. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 3. This Ordinance shall take effect immediately upon its adoption by the Commissioners of the Town of Henlopen Acres.

Adopted by the Commissioners
of the Town of Henlopen Acres
January 8, 2021


Secretary of the Commissioners of
the Town of Henlopen Acres

SYNOPSIS: This Ordinance amends the Town's Municipal Code concerning Disorderly Conduct.