

An Ordinance Regulating the Creation of Noise

WHEREAS, the Town of Waterford has, by virtue of authority granted in 24 V.S.A. § 1971 and 24 V.S.A. § 2202(a), the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate noise within its boundaries;

AND WHEREAS, the Town of Waterford has, by virtue of authority granted in 24 V.S.A. Section § 1974a, the power to enforce civil ordinance violations;

NOW THEREFORE, in consideration of neighbors and in order to balance the vitality of our town, to preserve the peace and promote civility, and to prevent hearing loss, sleep loss, and a general reduction in the quality of life, the Town of Waterford will protect the public tranquility.

Article 1. Definitions

(a) Plainly Audible: Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

(b) Residential Property or Receiver: Property used for human habitation or sleeping.

(c) Commercial/Industrial Property or Receiver: All other property, e.g. restaurants, schools, churches.

(d) Background Level: The composite of all sounds exclusive of the sound under evaluation.

(e) dBA: The sound pressure level measured using the weighting network as prescribed by the American National Standards Institute.

(f) Receiving Property: The location that is receiving the sound in question.

(g) Emergency: Any occurrence or set of circumstances involving reasonable expectation of actual or imminent physical trauma or property damage.

(h) Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(i) Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(j) Person: any individual, group, organization, company or corporation located in Waterford, VT.

Article 2. Prohibitions; general prohibitions

No person shall make or continue any excessive, unnecessary, unreasonably loud noise or disturbance, or any noise which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance. Without limitations, the commission of one or more of the following acts, if done in such manner, shall be deemed a violation of this Ordinance:

(a) Personal Mobile, or Portable Sound-producing Devices. The playing or use of a personal mobile, or portable sound-producing device in such manner or with such volume at any time and place so as to disturb, destroy or endanger the comfort, repose, or peace of persons. Evidence of such disturbance shall be the use of electronic sound producing devices that are operated in such a manner to be plainly audible at a distance of 50 feet in any direction from the operator.

(b) Vocal Disturbances. Yelling, shouting, whistling, singing or making any other loud vocal noise so as to disturb, destroy, or endanger the comfort, quiet, repose or peace of persons in the vicinity of the noise or disturbance.

(c) Devices to Attract Attention. The use of any drum, musical instrument, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention.

(d) Dogs, Cats and Other Animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.

(e) Construction and Maintenance Sounds: The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street between the hours of 9:00pm and 7:00am on Sunday evening through Saturday morning, and 9:00pm Saturday Evening and 8:00am Sunday morning except for necessary emergency construction and maintenance to protect property or persons.

(f) Business Operation: Sounds which exceed the limits set by the State of Vermont or the Waterford Zoning Bylaws.

(g) Compression Brakes: The non-emergency use of compression brakes (also known as Jacob's brakes) by the trucks.

(h) Motor Vehicles: Sounding of vehicle horns, sirens, security alarm or other devices to attract attention that are not required in an emergency situation.

(i) Outside events: Outside events, either amplified or non-amplified, at a public or private event between the hours of 10:00pm and 7:00am Sunday through Thursday and 11:00pm and 7:00am Friday and Saturday.

Article 3. Evidence of violation

For the purposes of subsections (a), (b), (c), (d), (e) and (f) of Article 2, a noise or disturbance of such magnitude so as to be plainly audible in another building or in another dwelling unit located in the same building, or in the street or public way shall be deemed prima facie evidence of a violation of this ordinance. Each instance observed by a Town Official, a Law Enforcement Officer, or similar individual shall be considered a violation.

Article 4. Mufflers

A motor vehicle, including a motorcycle, moped, snowmobile, all-terrain vehicle, or other vehicle equipped with and propelled by engine, whether operated on a public street or on private property, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy or damage any of

the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass or similar device upon any such vehicle. Such vehicle shall at all times be equipped with a properly operating exhaust system which shall include a tail pipe and a resonator on a vehicle where the original design included a tail pipe and a resonator.

Article 5. Landlord and property owner culpability

(a) A landlord or property owner who, after notice, fails to take reasonable steps to prevent subsequent violations of this Ordinance by the tenant shall be in violation of this Ordinance and subject to enforcement as enumerated in Article 6 of this Ordinance.

(b) Prior to issuing a citation to a landlord, the landlord must receive written notice from the Town of Waterford stating that the tenant has been issued a citation for violation of this Ordinance. The landlord then has five (5) days to issue a written warning to the tenant requesting that the tenant discontinue the violating behavior.

Article 6. Enforcement

(a) No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Ordinance by another person on such premises.

(b) The first offense for any person violating the provisions of this Ordinance, within a twelve month period, shall be a fine of \$100.00.

(c) A second and subsequent offense for violating this Ordinance within a twelve month period shall be a fine of \$200.00.

(d) A waiver fee of \$75.00 is set for the first offense and \$150.00 for each subsequent offense.

(e) Each time a law enforcement officer is called to a scene of a noise complaint shall be deemed to be a separate offense.

Article 7. Variances

Any person may apply to the Waterford Selectboard for a variance from the requirements of this Ordinance prior to performing unpermitted acts. The applicant shall provide a list of property owners within two hundred fifty (250) feet of the site(s) where the activity is to occur. Ten (10) days advance written notice of the Selectboard meeting shall be provided to the property owners and residents appearing on the list. For good cause shown, the Selectboard may, in its sole discretion, either grant or deny the variance. If the variance is granted, the Selectboard may impose reasonable conditions to it.

Article 8. Exemptions

Sounds from the following sources shall be exempt from the prohibitions specified herein and shall not be included in any measurements performed to determine compliance with this ordinance:

(a) All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire and medical/rescue vehicle sirens.

(b) The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside of daytime hours.

(c) Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.

(d) Musical, recreational and athletic events conducted by and on the site of a school or education institution and municipal institutions.

(e) Events conducted by or permitted under a Festival Permit issued by the Town of Waterford. Persons operating an event under such permit shall comply with all conditions of such permits with respect to noise control issues.

(f) Construction or repair work which must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and which is not work which includes normal maintenance and repair.

(g) Equipment for maintenance of lawns and grounds during the hours of 7:00am to 9:00pm Monday through Saturday, and between 8:00am to 9:00pm on Sunday (including but not limited to lawn mowers, hedge trimmers, weed whackers, chain saws and leaf blowers).

(h) Vehicles that meet state standards on the public right-of-way.

(i) Normal noises that are part of everyday life for a household or commercial establishment, such as playing musical instruments, outdoor music, property and building maintenance etc. by the owner or occupant of a residence or an apartment until 10:00pm on Sunday through Thursday and until 11:00pm on Friday and Saturday.

(j) Normal and reasonable noise associated with refuse and recycling collection which occurs after 3:00am by commercial trash haulers.

Article 9. Notification by property owners of rental housing

Owners of rental housing shall provide a copy of this Ordinance to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the Ordinance shall not be a defense to a violation of this section.

Adopted: xx/xx/xx by the WATERFORD SELECTBOARD

Effective: