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June 10, 2019

Mr. Paul Kritzler
Connecticut Department of Energy and Environmental Protection
Bureau of Air Management
Planning and Standards Division
79 Elm Street
Hartford, CT 06106-5127

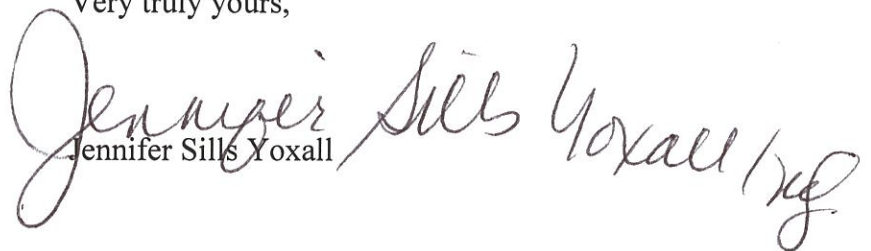
Re: Town of Prospect proposed noise ordinance

Dear Mr. Kritzler:

As you may recall, in September of 2018 I sent you the draft noise ordinance proposed by the Town of Prospect Town Council (the "Town Council"). You responded with some minor suggestions which have been incorporated. The Town Council adopted the revised (attached) ordinance on April 23, 2019. In accordance with Connecticut General Statutes § 22a-73(c), the Town Council is submitting the ordinance to the Commissioner of Energy and Environmental protection for approval.

Please feel free to call me with any questions.

Very truly yours,


Jennifer Sills Yoxall

JSY/ mg
Enclosure

cc: Prospect Town Council

AN ORDINANCE PROVIDING FOR THE REDUCTION OR ELIMINATION OF
EXCESSIVE NOISE AND THE ADMINISTRATION THEREOF

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPECT that Ordinance #47-03-03-87 entitled "An Ordinance Providing for the Reduction or Elimination of Excessive Noise and the Administration Thereof" is hereby repealed and the following ordinance is substituted in lieu thereof:

Section 1: Declaration of Policy.

Excessive noise must be controlled by the Town of Prospect to protect, preserve, and promote the public health, safety, and welfare.

The Town Council recognizes the fact that people have the right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety and welfare.

Section 2: Definitions.

1. "Background noise" shall mean noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable.
2. "Business Zone" shall mean those areas designated as "B" or "CP" under the Zoning Regulations of the Town of Prospect. Any use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.
3. "Chief of police" shall mean the chief of police of the Town of Prospect or a duly authorized officer subject to his/her orders.
4. "Construction" shall mean the assembly, erection, substantial repair, alteration, demolition, or site-preparation for or of public or private rights of way, buildings or other structures, utilities, or property.
5. "Construction equipment" shall mean any equipment or device operated by fuel or electric power, used in construction or demolition work.
6. "Day-Time Hours" shall mean the hours between 7 A.M. and 10 P.M., Monday through Saturday, and hours between 9 A.M. and 10 P.M. on Sunday.
7. "Decibel" shall mean a unit of measurement of the sound level, the symbol for which is dB.

8. "Demolition" shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
9. "Emergency" shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
10. "Emergency Work" shall mean work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.
11. "Excessive noise" shall mean any sound, the intensity of which exceeds the standards set forth in Section 6 of this Article.
12. "Impulse noise" shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decrease.
13. "Infrasonic sound" shall mean sound pressure variations having frequencies below the audible range for humans, generally below 20 Hz.
14. "Intrusion alarm" shall mean a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.
15. "Industrial Zone" shall mean those areas designated as "IND-1", "IND-2" or "EE" in the Zoning Regulations of the Town of Prospect.
16. "Mayor" shall mean the duly elected Mayor of the Town of Prospect or his/her designee.
17. "Motor Vehicle" shall mean a vehicle as defined in the Connecticut General Statutes.
18. "Muffler" shall mean a device for abating sounds such as escaping gases.
19. "Night-Time Hours" shall be the hours between 10:00 P.M. and 7:00 A.M. Sunday evening through Saturday morning, except that Night shall mean the hours between 10:00 P.M. Saturday and 9:00 A.M. Sunday.
20. "Noise level" shall mean a frequently weighted sound pressure level as measured with a sound meter using the A-weighting network. The level so read is designated dBA.
21. "Person" shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the State or other legal entity of any kind.
22. "Premises" shall mean any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

23. "Property line" shall mean that real or imaginary line along the ground surface and its vertical extension which:
- (1) Separates real property owned or controlled by any Person from contiguous real property owned or controlled by another Person; and
 - (2) Separates real property from a public right-of-way.
24. "Property maintenance equipment" shall mean all engine or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers, snow removal equipment.
25. "Public emergency sound signals" shall mean a device either stationary or mobile, producing audible signal associated with a set of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action, or involving the testing of such signals.
26. "Public facility maintenance" shall mean all activity related to the clearing, cleaning, repair, and upkeep of public roads, side-walks, sewers, water mains, utilities, and publicly-owned property
27. "Public right-of-way" shall mean any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.
28. "Recreational vehicle" shall mean any non-registered internal combustion engine powered vehicle which is being used for recreational purposes.
29. "Residential zone" shall mean those areas designated as "RA-1" or "RA-2" in the Zoning Regulations of the Town of Prospect. Any use which is nonconforming shall be deemed to be in the zone which corresponds to the actual use.
30. "Sound" shall mean a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.
31. "Sound amplification device or similar equipment" shall include, but not be limited to, a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker or sound amplifier which is operated in such manner that it creates noise.
32. "Sound Level Meter" shall mean an instrument used to measure sound levels. A sound level meter shall conform, as a minimum, to the American National Standards Institute's operational specifications for Sound Level Meters S1.4-1971 (Type S2A).

33. "Sound pressure level" shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of sound to the reference pressure of twenty micronewtons per square meter (20×10^{-6} Newtons/M²) and is expressed in decibels (dB).
34. "Ultrasonic sound" shall mean sound pressure variations having frequencies above the audible sound spectrum for humans, generally higher than 20,000 Hz.

Section 3: Exclusions.

This article shall not apply to noise emitted by or related to:

- (a) Natural phenomena
- (b) The unamplified sound made by a wild animal
- (c) A bell or chime from any building clock, school or church
- (d) A public emergency sound signal
- (e) Farming equipment or farming activity
- (f) An emergency
- (g) Warning devices required by OSHA or other state or federal safety regulations

Section 4: Exceptions.

The following shall be exempt from this article subject to the special conditions noted:

- (a) Noise created by the operation of property maintenance equipment during between the hours of 7:00 A.M. and 9:00 P.M. Monday through Saturday, and between the hours of 9:00 A.M. and 8:00 P.M. on Sundays, provided that noise discharge from exhaust is adequately muffled.
- (b) Noise generated by snow removal equipment provided such equipment is maintained in good repair and noise discharged from exhausts is adequately muffled.
- (c) Noise generated by any construction equipment operated during the hours of 7:00 A.M. and 6:00 P.M. on weekdays and Saturdays.
- (d) Noise from demolition work conducted between the hours of 8:00 A.M. and 6:00 P.M. provided that when considered emergency work, demolition shall be exempted at all times from the noise level limits in this ordinance.
- (e) Noise created by recreational activities which are sanctioned by the Town including, but not limited to parades, sporting events, concerts, and firework displays.
- (f) Noise created by aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions.
- (g) Noise created by blasting provided that the blasting is conducted between 8 A.M. and 5 P.M. and providing that a permit for such blasting has been obtained from state or local authorities.

- (h) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6 A.M. and 10 P.M.
- (i) Noise created by a fire or intrusion alarm which, from time of activation of the audible signal, emits noise for a period of time not exceeding ten minutes when such alarm is attached to a vehicle or thirty minutes when attached to any building or structure.
- (j) Noise created by public facility maintenance during Day-Time Hours.
- (k) Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical power, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements.

Section 5: Noise Level Measurement Procedures.

For the purpose of determining noise levels as set forth in this article, the following guidelines shall be applicable:

- (1) Where and when a sound level meter is used:
 - (a) All personnel conducting sound measurements shall be trained, including but not limited to training in the current techniques and principles of sound measuring equipment and instrumentation;
 - (b) Instruments used to determine sound level measurements shall be sound level meters, as defined by this article;
 - (c) The general steps listed below shall be followed when preparing to take sound level measurements:
 1. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
 2. The sound level meter shall be calibrated before and after each set of measurements;
 3. When measurements are taken out-of-doors, a wind screen shall be placed over the microphone of the sound level meter, as per the manufacturer's instructions;
 4. The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements; and,
 5. Measurements to determine compliance with Section 6 shall be taken at a point that is located more or less one foot beyond the boundary of the emitter's premises and within the receptor's premises. The emitter's premises includes /her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

- (2) In the absence of a sound meter, noise will be plainly audible when noise can be heard at a distance of one hundred (100) feet from its source, by a person with normal hearing.

Section 6: Noise levels.

- (a) Noise levels:

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this article.

- (b) Noise level standards:

1. No person shall emit noise exceeding the levels stated herein:

Zone in which EMITTER is located	Zone in which RECEPTOR is located			
	Industrial	Business	Residential Day-Time Hours	Residential Night-Time Hours
Industrial	70 dBA	66 dBA	61dBA	51dBA
Business	62 dBA	62 dBA	55 dBA	45 dBA
Residential	62 dBA	55 dBA	55 dBA	45 dBA

2. Any property use which is nonconforming shall be deemed to be in the zone which corresponds to actual use.

- (c) Background noise and impulse noise:

1. In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by 5 dBA, provided that no source subject to the provisions of this ordinance shall emit noise in excess of 80 dBA at any time and provided that this Section shall not be interpreted as decreasing the permissible noise level standards of other sections of this ordinance.
2. No person shall cause or allow the emission of impulse noise in excess of 80 dBA peak sound pressure level during Night-Time Hours to any residential noise zone.

3. No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time to any zone.
 4. Continuous noise measured beyond the boundary of the zone of the noise emitter in any other zone which possesses one or more audible discrete tones shall be considered excessive noise when a level of 5 dBA below the levels specified in Section 6 of this ordinance are exceeded.
 5. No person shall emit beyond his/her property infrasonic or ultrasonic sound in excess of 100 dB at any time.
- (d) Motor vehicle and snowmobile noise:
1. All motor vehicles and snowmobiles operated within the limits of the Town of Prospect shall be subject to the noise standards and decibel levels as set forth in the regulations of the State of Connecticut Department of Motor Vehicles, Section 14-80a-4A entitled "Allowable Noise Levels."
 2. No sound amplifying device or similar equipment on or within motor vehicles shall emit noise that is plainly audible at a distance of one hundred (100) feet from such vehicles by a person of normal hearing, except that loud speakers or public address systems are allowed provided prior to use thereof a permit has been obtained from the Prospect Police Department.
- (e) Non-Registered Recreational Vehicle Noise:
1. No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a non-registered recreational vehicle. A noise shall be deemed to be unreasonably loud and in violation of this Ordinance when the noise so generated exceeds the noise level standards of Section 6.

Section 7: Inspections

- (a) For the purpose of determining compliance with the provisions of this ordinance, the chief of police or his/her designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests, whenever necessary, to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a Premises, or refuses inspection, testing or noise measurement of any activity, device, facility, or process where inspection is sought, the chief of police or his/her designated representative may seek from the appropriate court a search warrant, without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.
- (b) It shall be unlawful for any Person to refuse to allow or permit the chief of police or his/her designated representative free access to any Premises, when the chief of police or his/her designated representative is acting in compliance with a warrant for inspection or order issued by the appropriate court.

- (c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

Section 8: Penalties and Enforcement

- (a) Any person in violation of any provision of this Ordinance shall be subject to a civil penalty in the amount of \$150 per violation. Each day that the violation continues shall constitute a separate violation.
- (b) This ordinance is specifically designated for enforcement by citations issued by Town of Prospect police officers and the citation hearing procedure established by Ordinance 89-10-16-18 of the Prospect Code of Ordinances, as it may be amended from time to time, shall be followed.
- (c) Any Person aggrieved by any act constituting a violation of this ordinance may complain to the police department who shall enforce this ordinance.
- (d) The police are also authorized to enforce this Ordinance without any such complaint.

Section 9. Variance.

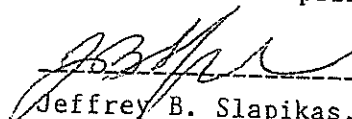
- (a) Any person residing or doing business in Prospect may apply to the Mayor for a variance from one or more of the provisions of this article which are more stringent than the Connecticut Department of Energy and Environmental Protection's regulations for the control of noise, provided that the Applicant supplies all of the following information to the Mayor at least twenty (20) days prior to the start of said activity:
1. The location and nature of the activity;
 2. The reason for which the variance is required, including the economic and technical justifications;
 3. The time period and hours of operation of said activity;
 4. The nature and intensity of the noise that will be generated;
 5. A description of noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom; and
 6. Any other information required by the Mayor.
- (b) No variance from these regulations shall be issued unless it has been demonstrated that:
1. The proposed activity will not violate any provisions of the Connecticut Department of Energy and Environmental Protection regulations;
 2. The noise levels generated by the proposed activity will not constitute a danger to public health; and
 3. Compliance with this ordinance constitutes an unreasonable hardship on the applicant without equal or greater benefits to the public.

- (c) In making a determination on granting a variance, the Mayor shall consider, among other things.
1. The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property which is caused or threatened to be caused; and
 2. The social and economic value of the activity for which the variance is sought.
- (d) The Mayor may, at his/her discretion, limit the duration of any variance granted under this ordinance. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of this ordinance. Any such application shall include a certification of compliance with any condition(s) imposed under the previous variance.
- (e) The Mayor may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Mayor deems necessary.
- (f) A variance may include a compliance schedule and requirements for periodic reporting of increments of achievement of compliance.
- (g) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.
- (h) Failure to rule on the application in the designated time shall constitute approval of the variance

Section 10: Severability.

If, for any reason, any word, clause, paragraph, or section of this article shall be held to make the same unconstitutional or superseded by any State Law or Regulation this article shall not thereby be invalidated and the remainder of the article shall remain in effect.

Adopted Date: April 23, 2019



 Jeffrey B. Slapikas, Chairman
 Prospect Town Council

2019 APR 24 PM 3:50
 TOWN CLERK

Received for Record: April 24, 2019
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 Publication Date: May 1, 2019
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M. Carrie Anderson, Prospect Town Clerk