

**TOWN OF WINDHAM**  
**Town Council**

Ordinance No. 2487

**BE IT ORDAINED** by the Town Council **THAT**

**Section 1 Repeal**

The prior Noise Ordinance of the Town of Windham, establishing a 60 foot noise distance, is hereby repealed and replaced in its entirety by this ordinance.

**Section 2 Title**

This ordinance shall be known as the Noise Control Ordinance of the Town of Windham.

**Section 3 Purpose**

It is found that excessive sound and vibrations are harmful to the quality of life, and the health, safety and welfare, of persons living, residing and visiting the Town, in that excessive sound and vibration adversely affect sleep habits, attentiveness to duty, work, study and personal affairs, adversely affect commerce, businesses, and pedestrians, and adversely affect the use and enjoyment of public areas such as streets and sidewalks, parks and other recreational lands and areas of the Town; and

It is found that persons residing within the Town of Windham should enjoy an environment free from excessive sound and vibrations; and

It is found that a substantial body of science and technology exists by which excessive noise may be substantially abated; and

It is found that excessive noise must be controlled by ordinance to protect, preserve and promote the public health, safety and welfare.

Therefore, pursuant to the Town Charter, Connecticut General Statutes Sections 7-148, 14-80a, and 22a-67, et seq., and Connecticut General Statutes Sections 7-148(b)(7)(H)(viii) and 22a-73, the Town Council hereby adopts this Ordinance and declares its enforcement to be a Town priority.

#### **Section 4 Prohibitions**

Except as provided in Section 5 of this ordinance, it shall be unlawful for any person to make or cause to be made any loud or unreasonable noise. Noise shall be deemed to be loud or unreasonable when it disturbs, injures, or endangers the peace or health of another or when it endangers the health, safety, or welfare of the community. Any such noise shall be considered to be a noise disturbance and a public nuisance when it is audible by a person of normal hearing at a distance of 100 or more feet from a property line within which boundary line is the source of the noise.

#### **Section 5 Express prohibitions**

The following acts, which enumeration shall not be deemed to be exclusive, are declared to be a noise disturbance:

A. All motor vehicles operated within the limits of the Town of Windham shall be subject to the noise standards and decibel levels set forth in the regulations authorized in federal, state, and local laws and regulations, including but not limited to Conn. regulation sections 14-80a-1a through 14-80a0-10a as amended from time to time.

B. It shall be unlawful for any person to operate a motor vehicle having a stereo, radio, sound amplification system, or other sound system, that may be heard a distance of 100 feet or more from the motor vehicle by a person of normal hearing;

C. It shall be unlawful for any person in charge of a party or other social event to allow that party or event to produce noise in a loud or offensive manner such that the noise interferes with the peace or health of members of the public. A person shall be deemed to be in charge of a party or social event when that event occurs on private property and the person is present at the event and resides on the premises involved, or is a person who lives in or on the premises involved and who has authorized the use of the premises for such event. In addition, the owner/landlord of the property and any person managing the property, will also be considered to be in charge of the party or social event jointly and severally. It shall be unlawful for any person to produce loud or offensive noise which may be heard by a person of normal hearing at a distance of 100 feet as measured from the property line from which the sound emits.

#### **Section 6 Exclusions**

This Ordinance shall not apply to any noise emitted by or related to:

Sound generated by natural phenomena, including, but not limited to, wind, storms, insects, amphibious creatures, birds and water flowing in its natural course.

- B. The unamplified sounding of the human voice
- C. The unamplified sound made by any wild or domestic animal.
- D. Sound created by bells, carillions, or chimes associated with specific religious observances.
- E. Sound created by a public emergency signal attached to an authorized emergency vehicle, as authorized by subsection (d) of Section 14.80 and Section 14-1a of chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness.
- F. Sound created by safety and protective devices.
- G. Farming equipment or farming activity.
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- I. Sound generated by any mobile source of noise. Mobile sources of noise shall include, but are not limited to, such sources as aircraft, automobiles, trucks and boats. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position into a loading dock, or similar facility, has turned off its engine and ancillary equipment, and has begun the physical process of removing the contents of the vehicle.
- J. Any noise the regulation of which would be preempted by state or federal noise regulations, including the exclusions provided in Connecticut General Statutes Section 22a-74a and /or 14-80a, as amended from time to time.
- K. And any future exclusions in Connecticut Department of Environmental Protection regulations Sec. 22a-69-1.7, or Section 14-80a.

## **Section 7 Conditional Exemptions**

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

- A. Noise created by the operation of property maintenance equipment during daytime hours.
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- A. This ordinance may be enforced by any police or peace officer, by the Town Manager, and by the Town Manager's designee, and each may issue written citations for the fines prescribed herein.
- B. A person who violates any provision of this ordinance shall be given an initial written warning.
- C. A subsequent offense of any provision of this ordinance shall be deemed a civil ordinance violation and shall be punishable by a fine of Two Hundred Fifty Dollars (\$250).
- D. Where the violation involves a motor vehicle and the person cited is not the owner, the owner of the vehicle shall be jointly and severally responsible with the driver for the payment of the fine.

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- F. The fine shall be paid within five (5) days of its issuance, and any person failing to make payment within the said five (5) days shall be charged interest at the rate of Eighteen Percent (18%) per annum.
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## **Section 9 Exclusivity, Criminal acts, conflicts and severability**

The provisions and remedies under this ordinance are not exclusive and shall be in addition to any other provisions and remedies provided for in any Town ordinance or section of the general statutes or which are available under common law.

Nothing here in shall be construed to in any way restrict or limit the enforcement of the criminal laws by the Town of Windham, the State of Connecticut or the United States, including the criminal enforcement of disorderly conduct and civil disobedience statutes and laws. In addition, nothing herein shall be construed to limit, impair or affect the regulatory authority of any board, official or commission, to regulate noise or sound, decibel levels or their effects, nor to place more restrictive restrictions upon any use, activity, property or person. Nothing herein shall be construed to be a defense against any prosecution for any civil, administrative or criminal proceeding.

If, for any reason, any word, clause, paragraph or section of this ordinance shall be held to make the same unconstitutional or superseded by any state law or

regulation, or invalidated, this ordinance shall not thereby be invalidated and the remainder of the ordinance shall continue in effect.

**Section 10 Effective date and miscellaneous**

This Ordinance shall be published pursuant to the Charter, and unless repealed by initiative, subject to approval by the Commissioner of Environmental Protection. Notice of the Commissioner's approval shall also be published, and this Ordinance shall be effective 30 days after the date the said approval is published.

Introduced by: \_\_\_\_\_ Adopted: \_\_\_\_\_

Introduced By: Mike Lessard Adopted: 3-16-10 6

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- D. Sound created by bells, carillions, or chimes associated with specific religious observances.
- E. Sound created by a public emergency signal attached to an authorized emergency vehicle, as authorized by subsection (d) of Section 14.80 and Section 14-1a of chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness.
- F. Sound created by safety and protective devices.
- G. Farming equipment or farming activity.
- H. Back-up alarms required by OSHA or other State or Federal safety regulations
- I. Sound generated by any mobile source of noise. Mobile sources of noise shall include, but are not limited to, such sources as aircraft, automobiles, trucks and boats. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position into a loading dock, or similar facility, has turned off its engine and ancillary equipment, and has begun the physical process of removing the contents of the vehicle.
- J. Any noise the regulation of which would be preempted by state or federal noise regulations, including the exclusions provided in Connecticut General Statutes Section 22a-74a and /or 14-80a, as amended from time to time.
- K. And any future exclusions in Connecticut Department of Environmental Protection regulations Sec. 22a-69-1.7, or Section 14-80a.

## **Section 7 Conditional Exemptions**

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

- A. Noise created by the operation of property maintenance equipment during daytime hours.
- B. Noise generated by any construction equipment operated during daytime hours.
- C. Noise created by any recreational activities sanctioned by the Town, including, but not limited to, parades, sporting events, festivals, concerts and firework displays.
- D. Noise created by blasting, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from state or local authorities.
- E. Noise created by snow removal equipment provided that the noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

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 10 minutes when such alarm is attached to a vehicle or 30 minutes when attached to any building or structure.

- G. Noise not exceeding the levels or duration specified by the Town's zoning commission or zoning board of appeals, provided that compliance with the Town's noise regulations does not preclude enforcement by the state under the state noise plan or other provisions.

## **Section 8 Enforcement**

- A. This ordinance may be enforced by any police or peace officer, by the Town Manager, and by the Town Manager's designee, and each may issue written citations for the fines prescribed herein.
- B. A person who violates any provision of this ordinance shall be given an initial written warning.
- C. A subsequent offense of any provision of this ordinance shall be deemed a civil ordinance violation and shall be punishable by a fine of Two Hundred Fifty Dollars (\$250).
- D. Where the violation involves a motor vehicle and the person cited is not the owner, the owner of the vehicle shall be jointly and severally responsible with the driver for the payment of the fine.

- E. Where the violation involves a motor vehicle, the Town may report unpaid fines to the Connecticut Department of Motor Vehicles.
- F. The fine shall be paid within five (5) days of its issuance, and any person failing to make payment within the said five (5) days shall be charged interest at the rate of Eighteen Percent (18%) per annum.
- G. A person who files a complaint falsely or without a reasonable basis may be prosecuted in the same manner as filing a false report according to law.
- H. A person accused of a second, third or further offense[s] may appeal in accordance with the Town's appeal process.
- I. The identification of property lines under this ordinance shall be sufficient if the location is reasonably ascertained by the presence of fences, driveways, vegetative borders, rock walls, utility facilities, or landmarks conventionally associated with boundary line demarcation. Metes and bounds or other forms of surveys are not required.
- J. The measurement of distances under this ordinance shall be sufficient if undertaken by reasonable and reliable approximation, such as but not limited to pacing the distance or estimating the distance by comparison to car lengths, driveway widths, yard dimensions that can be verified by assessor's or other reliable maps, or similar non-technical but reasonably accurate measuring techniques.

## **Section 9 Exclusivity, Criminal acts, conflicts and severability**

The provisions and remedies under this ordinance are not exclusive and shall be in addition to any other provisions and remedies provided for in any Town ordinance or section of the general statutes or which are available under common law.

Nothing here in shall be construed to in any way restrict or limit the enforcement of the criminal laws by the Town of Windham, the State of Connecticut or the United States, including the criminal enforcement of disorderly conduct and civil disobedience statutes and laws. In addition, nothing herein shall be construed to limit, impair or affect the regulatory authority of any board, official or commission, to regulate noise or sound, decibel levels or their effects, nor to place more restrictive restrictions upon any use, activity, property or person. Nothing herein shall be construed to be a defense against any prosecution for any civil, administrative or criminal proceeding.

If, for any reason, any word, clause, paragraph or section of this ordinance shall be held to make the same unconstitutional or superseded by any state law or

regulation, or invalidated, this ordinance shall not thereby be invalidated and the remainder of the ordinance shall continue in effect.

**Section 10 Effective date and miscellaneous**

This Ordinance shall be published pursuant to the Charter, and unless repealed by initiative, subject to approval by the Commissioner of Environmental Protection. Notice of the Commissioner's approval shall also be published, and this Ordinance shall be effective 30 days after the date the said approval is published.

Introduced by: \_\_\_\_\_ Adopted: \_\_\_\_\_

Introduced By: Mike Lessard Adopted: 3-16-10 6