

# **TOWN OF WEST WINDSOR NOISE CONTROL ORDINANCE**

## **PURPOSE**

This ordinance is enacted, under authority granted in 24 V.S.A. Sec 2291(14) and 24 V.S.A. Chapter 59, by the Town of West Windsor Selectboard to protect, preserve and promote the health, safety, and welfare of the citizens of West Windsor. The intent is to establish a process which: 1) will result in the resolution of neighborhood conflicts over noises thought to be physically harmful, unsafe or otherwise detrimental to the peace and quiet residents have a right to expect in their locale, and 2) is mutually respectful of the interests and rights of others.

Since determination of precisely what amounts to unreasonable noise is often subjective, this ordinance is intended to encourage discussion among neighbors, resorting to enforcement action only when that discussion fails to resolve the matter and municipal officials concur that the noise in question does in fact constitute a public nuisance.

## **DEFINITION**

Unreasonable Noise – Any excessive or unusually loud sound heard by neighbors either inside or outside their homes which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities within the Town of West Windsor. Elements to be considered in determining whether noise is excessive in a given situation include, but are not limited to the following: *intensity of the noise, whether the noise is usual or unusual, whether the origin of the noise is natural or unnatural, the intensity of the ambient noise, the proximity of the noise to sleeping facilities, the time of day or night the noise occurs, the duration of the noise, whether the noise is continuous or intermittent, and/or whether alternate methods are available to achieve the objective of the sound producing activity.*

## **GENERAL PROHIBITIONS**

It shall be unlawful for any person to make, or cause to be made, any Unreasonable Noise on a daily or frequently recurring basis, or for excessive periods of time, after notice from neighbors and/or warnings from the Windsor Police or the Town Constable, that the noise is physically harmful, unsafe or otherwise detrimental to the peace and quiet citizens have a right to expect in their neighborhood. If, in the event that expressions of concern from neighbors and/or warnings from the police or constable fail to resolve the problem, two Selectboard members, either after personal observation, review of law enforcement reports, or consideration of the complaints made by the neighbors, concur that the noise constitutes a public nuisance, a violation of this ordinance will be deemed to have occurred and the enforcement process described below will begin.

In the following examples, not deemed to be exclusive, when sounds that may otherwise not be uncommon in a neighborhood, **rise to the level of an Unreasonable Noise as defined above**, that noise constitutes the kind of public nuisance this ordinance is intended to prevent:

- 1) Construction Activity - Noise emanating from the excavation, demolition, alteration or repair of buildings, structures, property or highways, except for emergency repairs necessary to protect people and/or property.
- 2) Vehicular Operation – Noise emanating from the operation of an automobile, motorcycle or other type of motor vehicle, in such a manner as to create abnormal engine, exhaust or tire noise.
- 3) Animal Husbandry - Any dog, cat or other animal noises which rise to the level of frequent or continued barking, howling, yelping or screaming. Customary agricultural activities are exempt.
- 4) Sound Producing Devices – Noises emanating from the use or operation of any amplifier, loudspeaker, musical instrument, phonograph, radio or other sound-making or sound-producing device, unless coming from an event permitted by the Town of West Windsor Select Board.
- 5) Firearms – Noises emanating from the discharge of pistols, rifles or other weapons, especially from large caliber guns or guns firing in semi-automatic mode.

In all occurrences such as these, the noise precipitating a complaint must be found to be an Unreasonable Noise if it is to constitute a violation of this ordinance.

### **EXCEPTIONS & PROHIBITIONS**

Sounds from the following sources shall be exempt from the prohibitions specified in this Ordinance:

- 1) Any event permitted under the West Windsor Event Ordinance.
- 2) Any siren or other warning device used for public safety.
- 3) Any emergency vehicles operated by fire, police or rescue personnel.
- 4) Any other vehicle or equipment owned and operated or contracted by a governmental body or utility in the performance of essential services.
- 5) Any event conducted or sponsored by and on the premises of an educational or municipal entity between the hours of 8AM and 10PM.
- 6) Any agricultural and forestry operations exempt from local regulation under Vermont law.
- 7) Any bells, carillons or chimes associated with customary religious observances.

Conversely, noise from the detonation of fireworks illegal under Vermont law is, by definition, Unreasonable Noise and subject without further investigation to all applicable penalties under statute.

### **ENFORCEMENT PROCESS**

If at least two Selectboard members concur that a violation of this ordinance has occurred, the following steps will be taken:

- The Selectboard will contact the person or persons responsible for the problem in writing and issue a notice of violation.
- Upon a second and any subsequent violation, the Windsor Police will issue Municipal Tickets subject to the penalties set forth below:

	Civil Penalty	Waiver Fee
First Ticket	\$100.00	\$50.00
Second Ticket	\$200.00	\$100.00
Third Ticket	\$300.00	\$200.00
Fourth Ticket	\$400.00	\$300.00
Fifth and Subsequent Tickets	\$500.00	\$400.00

The first ticket may, at the discretion of the Issuing Municipal Official and the Selectboard, be dismissed upon the successful completion – within ninety (90) days - of a mediated neighborhood discussion such as that offered by the Springfield Restorative Justice Center (<http://cjnvt.org/center/springfield-restorative-justice-center/>) or its like.

In addition to the enforcement procedures available before the Judicial Bureau, the Selectboard may commence a civil action in Superior Court to obtain injunctive or other appropriate relief and may pursue any other remedy authorized by law.

#### **SEVERABILITY**


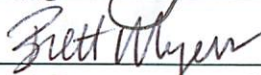
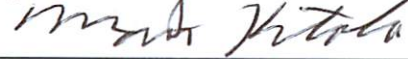
Each of the provisions of this Ordinance is severable, and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

#### **EFFECTIVE DATE**

This Ordinance shall become effective 60 days after its adoption by the West Windsor Selectboard. If a petition is filed under 24 V.S.A. Section 1973, the taking effect of this Ordinance shall be governed by that statute.

Adopted this 11<sup>th</sup> day of March, 2019.

Town of West Windsor Selectboard

  
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