

Springfield Selectboard Public Hearing & Regular Meeting

Monday, September 28, 6:00 – 9:00 pm

Join Zoom Meeting <https://us02web.zoom.us/j/85825908643>

Meeting ID: 858 2590 8643

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NOTICE OF PUBLIC HEARING
Town of Springfield, Vermont
Selectboard

The Springfield, Vermont Board of Selectmen will hold a Public Hearing and Second Review & Reading on Monday, September 28, 2020 at 6:00 PM via ZOOM to receive public input on a proposed ordinance: Nuisances Affecting Peace and Safety.

Please note the attachment of the proposed ordinance, Chapter 12. Health, Sanitation, Nuisances, Article II. Division 5. Nuisances Affecting Peace and Safety, amended: §§ 12-124 Certain noises prohibited.

In addition, a copy may be picked up at the Town Office between the hours of 8:30 AM and 1:00 PM, Monday through Thursday.

Town of Springfield
Board of Selectboard

OBJECTIONABLE NOISE ORDINANCE

Town of Springfield, Vermont
Ordinance 2020-3

SHORT TITLE:	An ordinance to amend the Administrative Code; Chapter 12. Health, Sanitation, Nuisances Article II. Nuisances Div. 5. Nuisances Affecting Peace and Safety Amended: §§ 12-124. Certain noises prohibited
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That the Code of Ordinances of the Town of Springfield, Vermont is hereby amended by amending Section 12-24 which is hereby amended and restated to read as follows:

SECTION 12-124. Certain noises prohibited.

No person shall make loud or unusual noises and annoying vibrations which offend the public peace and quiet.

(a) Authority. This ordinance is adopted under authority granted in 24 V.S.A. § 2291(14), 24 V.S.A. Chapter 59, 13 V.S.A. Chapter 019, and Springfield Town Charter Article One § V.

(b) Purpose. The purpose of this ordinance is to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of Springfield, Vermont through the reduction, control and prevention of noise that is loud enough to unreasonably disturb persons of reasonable sensitivity. The intent of this ordinance is to establish standards that will eliminate and reduce unnecessary noises that are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business. It is not the intent of this ordinance to restrict the normal operation of industrial plants within industrial parks, the normal operation of businesses within areas zoned for such purposes, or entertainment or educational programs within venues dedicated to that purpose in properly zoned areas.

Unreasonable Noise is defined as any excessive or unusually loud sound which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person of normal sensibilities within the Town of Springfield. 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 zoning district within which the noise emanates, the time of day or night the noise occurs, the duration of the noise, whether the noise is continuous or intermittent, and whether alternate methods are available to achieve the objectives of the sound producing activity.

(c) General Prohibitions. No person or persons shall make, cause to be made, assist in making or continue any Unreasonable Noise, which disturbs, destroys, or endangers the comfort, 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, shall be deemed a violation of this ordinance and shall be considered a public nuisance, provided that the instrument, devices, vehicles or other noise source is plainly audible at the emitting property or

unit (apartment, condominium, etc.) boundary: The following acts are declared to be unreasonably loud, objectionable, and unnecessary noises, and are therefore a public nuisance, and are prohibited by this ordinance.

(1) Unreasonable noise occurring at any time or any location within the town, unless noted otherwise.

(1)a. Radios, other sound-producing devices. The use or operation of any radio, phonograph, musical instrument or other sound-making or sound-producing device in such manner as to unreasonably disturb the quiet or repose of any person or persons of reasonable sensitivity in the vicinity thereof. This shall not include sounds emanating from establishments such as a church, bar, pub, or dance hall **which is a permitted or grandfathered use for the district in which it is** located within a commercial district, nor part of the regular operation of an industrial facility within an industrial park, nor the normal operation of businesses within areas zoned for such purposes, nor part of an educational or athletic program within a public or private educational facility, **unless issued or a special use permitted** by the town;

(2)b. Defect in vehicle or operator operation of vehicle. The operation of any automobile, motorcycle or other type of motor vehicle in such a manner as to create squealing of tires or loud and unnecessary grating, grinding, exploding, rattling or other types of noises. **A motor vehicle, including a motorcycle, moped, snowmobile, all-terrain vehicle, dirt bike, or other vehicle equipped with and propelled by an 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. Original equipment by the manufacturer shall not be modified in any way that results in increased noise or exhaust. 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;**

(3)c. Loudspeakers. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles, or attached to poles, buildings, or other structures, unless issued a special use permit by the town;

(4)d. Exhausts. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(5)e. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a danger warning, the creation by means of any other signaling device or any unreasonably loud or harsh sound and the sounding of any device for unnecessary and/or unreasonable periods of time;

(6)f. Construction noise. Noises emanating from the excavation, demolition, alteration or repair of buildings, structures, ~~property~~ **properties** or highways, streets, or roads between the hours of 9 p.m. and ~~7~~ **6** a.m., except for emergency repairs necessary to protect people or property or unless issued a special use permit by the town;

(72) Other Noises originating or persisting within the town: and audible within locations zoned as Residential Agricultural 2 Acre, Residential Agricultural 5 Acre, and High or Medium Density Residential districts.

a. Persistent noise lasting in excess of approximately two (2) hours between the hours of 6 a.m. and 9 p.m. and which is deemed objectionable because of volume, frequency or beat and is **plainly audible at the emitting property or unit (apartment, condominium, etc.) boundary** audible from properties adjacent to the property where the noise is emanating, including but not limited to noise from animals, machinery, maintenance equipment, and motor vehicle repairs or maintenance;

b. Any noise which is deemed objectionable because of volume, frequency or beat and is **plainly audible at the emitting property or unit (apartment, condominium, etc.) boundary** that is audible at other properties between the hours of 9 p.m. and 6 a.m.

(d) Exemptions and Exclusions. Sounds from the following sources shall be exempt from the prohibitions specified in this ordinance:

~~(1) Emergency and Public Works vehicles and equipment, and emergency generators are exempt.~~

~~(2) Organizations sponsoring events such as neighborhood block parties and special activities in the downtown district may apply for a special use permit from the town exempting such events from the provisions of this ordinance.~~

(1) Any person or organization that has obtained a Noise Waiver from the Town of Springfield (i.e. parade, block party, fire works display, special events on farms, etc.). [SEP]

(2) Any vehicle and equipment owned by and operated by any governmental unit or a utility in the performance of its duties. [SEP]

(3) Noise associated with routine snow removal activities where customary practices and equipment are used and where the snow removal or snow grooming equipment is operated within the manufacturer's specifications and in proper operating condition. [SEP]

(4) Any construction activity that has obtained approval by the Town of Springfield to occur between the hours of 9:00 PM and 6:00 AM and that is deemed to be in the best interest of the public health, safety and welfare. [SEP]

(5) 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, and backup alarms required by OSHA, VOSHA or other federal or state agency. [SEP]

(6) Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare. ^{[[1]]}_{ISEP}

(7) Musical, recreational and athletic events conducted by and on the site of a school or educational facility or municipal facility or is sponsored by the municipal, state or federal government or an activity issued a special permit by the town. ^{[[1]]}_{ISEP}

(8) Equipment for maintenance of lawns and grounds during the hours of 6:00 A.M. to 9:00 P.M. (including but not limited to lawn mowers, hedge trimmers, weed trimmers, chain saws, and leaf-blowers) assuming they are properly muffled. ^{[[1]]}_{ISEP}

(9) Vehicles or aircraft (including medical air transport) that meet state and federal standards operating on the public right-of-way or air space and operated in a manner consistent with state and federal law. ^{[[1]]}_{ISEP}

(10) Noise associated with standard agricultural operations as defined in 12V.S.A. Chapter 195 which states that agricultural activities shall be entitled to a rebuttable presumption that the activity does not constitute a nuisance if the agricultural activity meets all of the following conditions:

a. it is conducted in conformity with federal, State, and local laws and regulations (including required agricultural practices);

b. it is consistent with good agricultural practices;

c. it is established prior to surrounding nonagricultural activities; and

d. it has not significantly changed since the commencement of the prior surrounding nonagricultural activity.

(11) Sound created by bells, carillons, or chimes associated with specific religious observances or the Town Clock. ^{[[1]]}_{ISEP}

(12) Vocal disturbances, whether or not it is electronically amplified, by spectators or participants in a political protest or rally, an athletic event or assembly sponsored by a public or private school, or recognized organized recreational activities.

(13) Barking of a working farm dog as defined in 20V.S.A. Sections 3549 and 3581.

(14) Regular operation of an industrial facility within an industrial park.

(15) Normal operation of businesses within areas zoned for such purposes, or grandfathered, or in conformance with their conditional use permit.

(16) Entertainment or educational programs within venues dedicated to that purpose in properly zoned areas and if in conformance with their conditional use permit.

(17) Reasonable construction noise occurring within the period of 6 a.m. and 9 p.m.

(18) Noise from normal business operations located in the Designated Downtown.

(19) Normal operating noise from motor vehicles on traffic ways, and watercraft, where the engine and exhaust has been outfitted with a muffler or other device that will effectively prevent loud or explosive noises to be emitted.

(20) Noise from engine exhaust brakes utilized for emergency purposes (Jacob's brakes).

(21) Noise from properly maintained refrigeration/HVAC/compressors.

(22) Removal of household and commercial trash by commercial trash haulers utilizing mechanized conveyances, from a residential property between the hours of 6 a.m. and 9 p.m.

(23) Forestry operations as defined in 10V.S.A. Section 2622 and 12V.S.A. Section 5757.

(e) Noise Waiver: Any person or organization may apply to the Selectboard for a Noise Waiver from the requirements of this ordinance prior to doing acts prohibited by this ordinance. 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 Noise Waiver. If the Noise Waiver is granted, the Selectboard may impose reasonable conditions to it. For noise events lasting less than a 12-hour period, the Board may waive or reduce the ten-day advance written notice of the Selectboard meeting. The Selectboard may delegate its authority to grant Noise Waiver requests for events lasting less than a 12-hour period, if it so chooses, by a majority vote of the Board.

(f) Property Owner Culpability

(1) A property owner is responsible for any violations of this ordinance that emit from their property.

(2) Prior to issuing a ticket to a landlord, the landlord must receive written notice from the Town of Springfield or its Police Department or Code Enforcement Officer stating that the tenant has been issued a ticket for violation of this ordinance. To exculpate itself, the landlord has five days to issue a written warning to the tenant requesting that the tenant discontinue the violating behavior, with a written copy of the warning provided to the issuing officer.

(3) A landlord 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.

(eg) Enforcement and Penalties. A civil penalty of not more than \$500 may be imposed for a violation of this civil ordinance with a waiver fee of \$250. Each day of a violation shall constitute a separate violation of this ordinance. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. § 1974a and § 1977 et seq. Violations shall be issued on a Vermont Municipal Violation Complaint Form. Anyone convicted of a violation or failure to comply with any of the provisions of this ordinance, including the failure to make a

required report or to pay any fee, may be subject to a civil penalty of not more than \$500. Each day a violation continues shall constitute a separate offense. [L] [SEP]

First offense - A first offense of any provision of this ordinance by a person shall be deemed a civil violation and shall be punishable by a fine of one hundred fifty dollars (\$150.00). The waiver fine shall be one hundred dollars (\$100.00). [L] [SEP]

Second and subsequent offenses - A second offense during a twelve- month period from the date of the first offense, shall be deemed to be a civil violation and shall be punishable by a fine of two hundred fifty dollars (\$250.00). The waiver fine shall be two hundred dollars (\$200.00). Each subsequent offense shall be deemed a civil violation and shall be punishable by a fine of five hundred dollars (\$500.00). The waiver fine shall be four hundred dollars (\$400.00). [L] [SEP]

Payment Deadline - All fees must be paid within thirty (30) days of receipt of notice. If fees are unpaid after thirty days, an additional fee of \$10.00 will be charged for each month. [L] [SEP]

(h) Severability. Each of the provisions of the 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.

(i) Effective date. This ordinance shall become effective 60 days after its adoption by the Springfield Selectboard. If a petition is filed under 24 V.S.A. § 1973, the taking effect of this ordinance shall be governed by that statute.

ADOPTED THIS _____ DAY OF _____, 2020.
