

WINHALL NOISE ORDINANCE

Town of Winhall

ARTICLE 1. Authority. This ordinance is adopted under authority granted in 24 V.S.A. § 2291(14), and 24 V.S.A. Chapter 59.

ARTICLE 2. Purpose. The purpose of this ordinance is to preserve the public health, safety, and welfare by prohibiting excessive and disturbing noise and to prevent noise which is prolonged or unsuitable for the time and place and which is detrimental to the peace and good order of the residential community. It is the goal of this ordinance to allow all residents of our Town to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.

ARTICLE 3. General prohibition. It shall be unlawful for any person to make or cause to be made any loud or unreasonable noise in a residential zone. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the residential community. Any such noise shall be considered to be a noise disturbance and a public nuisance.

ARTICLE 4. The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances in a residential zone.

- a. Radios, television sets, musical instruments, phonographs and similar devices in a residential zone. The operation or permitting the use or operation of any musical instrument, radio, television, phonograph in such a manner as to be plainly audible through walls between units within the same building, from another property or from the street from sunset to sunrise or in such a manner as to unreasonably disturb the peace, quiet or comfort of the public.
- b. Loudspeakers in a residential zone. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles, unless issued a special use permit by the Town of Winhall.
- c. Parties and other social events in a residential zone. Notwithstanding section (b), it shall be unlawful for any person who is participating in a party or other social event to actively make unreasonably loud noise. A party or other social event is defined as a gathering upon the premises of one or more persons not residing at the premises. Unreasonably loud noise is noise that unreasonably interferes with the peace or health of members of the public or is plainly audible from sunset to sunrise through the walls between units within the same building, from another property or from the street. It shall also be unlawful for any resident of a premise to allow a party or other social event occurring in or about the premises to produce unreasonably loud noise. There is a rebuttable presumption that all residents of the premises have allowed such party or other social event to occur in or about the premises. All residents of the premises are responsible for such unreasonable noise made, each having joint and several liability.

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- d. Construction noise in a residential zone. The excavation, demolition, erection, construction, alteration or repair of any premises or structure from sunset to sunrise, except for emergency situations.
- e. Noise in general in a residential zone. Any noise which is deemed objectionable because of volume, frequency or beat and which is not muffled or otherwise controlled.
- f. Machinery in a residential zone. The operation or permitting or directing the operation of any power equipment or machinery outdoors from sunset to sunrise, except in emergency situations.

ARTICLE 5. In a residential zone the creation of, permitting or operation of any of the above sets, instruments, devices or vehicles causing said noise in such a manner as to be plainly audible at a distance of 100 feet from a building, structure or vehicle from which noise emanates shall be prima facie evidence of a nuisance and a violation of this ordinance.

ARTICLE 6. Exemption. Noise from the following sources shall be exempt from the prohibitions specified herein:

- 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 rescue vehicle sirens.
- b. The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside daytime hours.
- c. Snow removal equipment operated within the manufacture's specifications and in proper operating condition.
- d. Musical, recreational and athletic events conducted by and on the site of a school or educational institution.
- e. Events and activities conducted by or permitted by the Town of Winhall.
- 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. Commercial and Forest Zones

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ARTICLE 7. Enforcement and penalties. 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. A civil ordinance violation is punishable by a penalty of a minimum fine of fifty dollars (\$50.00) to a maximum fine of five hundred dollars (\$500.00), which may at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program. The waiver penalty for a first offence of any provision of this ordinance by a person during any twenty-four (24) month period shall be a fine of fifty dollars (\$50.00). Any law enforcement officer may issue a municipal complaint ticket for offenses of the noise control ordinance.

ARTICLE 8. 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.

ARTICLE 9. Effective date. This ordinance shall become effective 60 days after its adoption (January 06, 2010) by the Town of Winhall 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 SIXTH DAY OF JANUARY, 2010.

T. David Glabach, Chairman


Robert Oakes, Vice Chairman


William B. Schwartz, Esq., Member

Selectboard, Town of Winhall

ADOPTION HISTORY:

1. Agenda item at regular Selectboard meeting held on January 06, 2010.
2. Read and approved at regular Selectboard meeting on January 06, 2010 and entered in the minutes of that meeting which were approved on January 20, 2010.
3. Posted in public places on January 07, 2010.
4. Notice of adoption published in the Vermont News Guide newspaper on January 13, 2010 with a notice of the right to petition.
5. Other actions [petitions, etc.]