

TOWN OF MIDDLEBURY

An Ordinance For The Regulation of Noise

Pursuant to the authority of Section 104 (B) and Section 104 (J) of the Middlebury Town Charter and such other state laws as are applicable do hereby enact the following ordinance:

ARTICLE I - PURPOSE

In order to protect the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance, the Board of Selectmen of the Town of Middlebury adopt an ordinance to prohibit and/or appropriately regulate a person or persons from making or continuing any excessive, unnecessary, or unreasonably loud noise or disturbance.

ARTICLE II - REGULATION

SECTION 200 - Prohibitions Generally

No person or persons shall make or continue, or cause to be made or continued, any excessive, unnecessary, or unreasonably loud noise or disturbance which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace or safety of others within the immediate vicinity of the noise or disturbance. Although intended as examples only, and not exclusive of other acts constituting a violation of this Article, the commission of one or more of the following acts, if done in such a manner, shall be deemed a violation of this Article:

a. Electronic sound producing devices. The playing or use of an electronic sound producing device in such manner or with such volume at unreasonable hours. For the purposes of this subsection, the term "electronic sound-producing devices" shall include any radio, phonograph, stereo, television set, amplified musical instrument, loud speaker, tape, cassette or compact disc recorder or any other similar device. On Sunday through Thursday, the hours between 10:00 p.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. On Friday, Saturday and special holidays (New Years Eve and Fourth of July) the hours between 1:00 a.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. The complaint of the disturbance, if or when confirmed by a Town Police Officer, shall also be deemed a violation as well.

b. Vocal Disturbances. Yelling, shouting, whistling, singing, or making any other loud vocal disturbance which are deemed to be objectionable because of volume, frequency or beat and is not muffled or otherwise controlled.

c. Devices to attract attention. The use of any drum, musical instrument, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention. This section shall not be construed to prohibit the playing of musical instruments by persons practicing or performing in a school or town band, orchestra or participating in or practicing for an authorized parade or assembly in a public place.

d. Dogs, cats and other animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming. Customary agricultural activities are exempt from this Ordinance.

e. Construction noises. The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street between the hours of 9:00 p.m. and 7:00 a.m., except for necessary emergency repairs to protect property of persons when such activity utilizes motorized or powered tools or equipment.

f. Trash removal. The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances from all residentially zoned areas between the hours of 9:00 p.m. and 6:30 a.m.

ARTICLE III - EXEMPTIONS

Emergency vehicles operated by fire, police or rescue agencies and public works or public utility vehicles when used during snow operation or emergency repairs to service are exempt from the provisions of this Ordinance. Any activities permitted under Public Assemblages, Street Vending, Peddling, Soliciting and other commercial activities on public property, shall also be exempt henceforth.

ARTICLE IV - ACTS NOT SPECIFICALLY PROHIBITED

The commission of any act not specifically prohibited by any other section or subsection of this chapter shall be deemed a violation of this chapter if it is determined that such act will make or continue any excessive, unnecessary, or unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance.

ARTICLE V - AUTHORITY

No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Ordinance by another person on such premises.

ARTICLE VI - PENALTY

A person who violates any provision of these regulations shall be fined not more than One Thousand Dollars (\$1,000) for each offense. Each week that a violation is continued shall constitute a separate offense. Any fines collected under this section shall be paid over to the Town of Middlebury.

ARTICLE VII - INTERPRETATION AND SEPARABILITY

Section 700 - Conflict with Other Standards

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulation or ordinance the most restrictive or that imposing the higher standard shall govern.

Section 701 - Severability

Should any court of competent jurisdiction determine any provision of the Ordinance to be invalid, such judgment shall not affect the validity of the Ordinance as a whole or any part other than the part so declared to be invalid.

Section 702 - Effective Date

This Ordinance, or amendments thereto, shall become effective 40 days after adoption consistent with Section 107 A-D of the Town Charter.

Adopted March 9, 1993, Effective April 18, 1993