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Memo

Date: January 8, 2019

To: Board of Selectmen

From: Planning & Code Enforcement Offices

Re: Ordinance Change Proposal – Noise Ordinance Changes

Proposal: Revise the Noise Ordinance to address daytime hours

Reasons:

The current ordinance language is confusing regarding “daytime hours” and lacking in defining when noise restrictions take effect. “Daytime hours” is defined in §145-10, but only referenced in §145-45D.Exemptions. The following changes are proposed to clarify restrictions during night time and daytime hours.

Proposed Ordinance Changes:

§145-45. Noise.

C. Maximum noise level. The maximum permissible noise level produced by any activity (existing or future) on a lot shall not exceed the following limits during daytime hours:

(1) Music, amplified or acoustic, not otherwise exempt, that is plainly audible and excessive, unnecessary or unreasonable at a point, not on the property where the music originates, but at the location where the complaint is made.

(2) Other noise levels, not otherwise exempt, plainly audible and excessive, unnecessary or unreasonable at the location where the complaint is made.

(3) Noise levels are limited to a level normally produced by the allowed use on the property.

D. Exemptions. The following shall be exempt from the standards of § 145-45C:

(1) Natural phenomena.

(2) Church bells rung as part of any official church ceremony or service, and tower clock bells ringing the hour during daytime hours, provided that at no time shall such duration exceed 15 minutes.

(3) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation; provided, however, that burglar alarms not terminating within 15 minutes after being activated shall be unlawful.

(4) Warning devices required by the Occupational Safety and Health Administration or other state or federal governmental safety regulations.

(5) Farming equipment or farming activity.

(6) Timber harvesting and milling during daytime hours.

(7)

F. Enforcement. Notwithstanding § 145-63 of this chapter, this section may be enforced by any of the following methods:

(1) A violation of this section may be considered a land use violation and the enforcement procedures in § 145-63 may be invoked by the Code Enforcement Officer.

(2) A violation of this section may be treated as a civil violation as defined by 17-A M.R.S.A. § 4-B and enforced by a law enforcement officer according to the procedures specified in 17-A M.R.S.A. § 17 and Rule 80H of the Maine Rules of Civil Procedure.

(3) A violation of this section may also be considered the creation of a loud and unreasonable noise as prohibited by 17-A M.R.S.A. § 501 (Offenses Against the Public Order: Disorderly Conduct), provided that neither the Town of Wells nor any of its employees may initiate proceedings alleging a violation of both the Town ordinance and the state statute against the same person or persons for the same incident.[Amended 4-16-1999]

(4) ~~With regard to a business with a special entertainment permit issued u~~ Under the authority of the Town of Wells, the municipal police and/or a Code Enforcement Officer for the Town of Wells shall have the authority to order ~~that business the~~ activity to cease operation of the violation immediately upon a second visit to the premises within a two-hour period, or a third visit within a twenty-four-hour period beginning with the time of the first visit to investigate a noise complaint, when a police officer or a Code Enforcement Officer has on the previous visit(s) heard plainly audible noise during night time hours or that exceed a level normally produced by the allowed use on a property in violation of this ordinance, and has reported that to the owner of the property or the person responsible for the excessive or unreasonable noise. The on-duty Municipal Police Supervisor shall accompany a police officer or Code Enforcement Officer responding to subsequent second and/or third noise complaints and shall have the authority to immediately cease operations of the violation source. The special entertainment may not resume within a twelve-hour period thereafter.[Added 6-14-2011]