TOWN OF FAIR HAVEN, VERMONT
NOISE IN THE NIGHTTIME ORDINANCE

#2010-04-20-1

Adopted: April 20, 2010 Effective: June 20, 2010

ARTICLE 1 - Authority

Pursuant to 24 VSA 1971(a) and 24 VSA 2291(14) , the Selectmen of the Town of Fair Haven, Vermont hereby adopt the following ordinance to regulate public nuisances within the Town of Fair Haven.

This ordinance is designated as a civil ordinance pursuant to 24 VSA Section 1971(b).

ARTICLE 2 - Purpose

It is the purpose of this ordinance to regulate the conduct of persons within the Town of Fair Haven in order to promote public health, safety and welfare throughout the Town of Fair Haven.

ARTICLE 3 – Definitions

For the purposes of this ordinance:

(1) "Private Property" means land not owned by the government or dedicated to public use.

(2) "Public Property/Public Place" means property owned by the government or one of its agencies, divisions, or entities. Commonly a reference to parks, playgrounds, streets, sidewalks, schools, libraries and other property regularly used by the general public.

(3) "Noise" means a sound that is loud, unpleasant, unexpected, or undesired.

ARTICLE 4 – Prohibited Conduct

It shall be unlawful for a person, between 10:00 p.m. and sunrise, to

A. Disturb the peace by firing guns, blowing horns, or by causing other unnecessary and offensive noise.

B. To operate or permit the operation of vehicular sound reproduction equipment from any type of motor vehicle that is plainly audible outside the motor vehicle.

ARTICLE 5 – Establishing Location of Noise

(1) Private Property

If a law enforcement officer determines that the noise is originating from private property, he shall attempt to determine the exact source of the noise. If the exact source of the noise cannot be determined it shall be presumed that the person in lawful possession, who is on the premises, such as a tenant or owner of the property, is the person responsible for the noise and shall be issued a municipal violation complaint.

(2) Public Property

If a law enforcement officer determines that the noise is originating from public property or a public place, he shall warn all persons present that the noise must immediately cease and inform all persons present that if the noise does not cease immediately all persons present will be issued a municipal violation complaint.

ARTICLE 6 - Penalties

1 A person who violates the provisions of this ordinance shall be fined:

Civil Penalty	Waiver Penalty
$200	$100

An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the waiver fee within 20 days of issuance of the municipal violation complaint.

The waiver penalty may double if not paid within 20 days of issuance of the municipal violation complaint.

2 Failure to Respond to Vermont Municipal Complaint

Any Vermont Municipal Complaint ticket not answered within 20 days of issue by notifying the Judicial Bureau that you admit, not contest or deny the allegation(s) in the Complaint shall be subject to a failure to answer fee as established by the Judicial Bureau. The additional fee may be added to the Waiver Penalty amount shown on the front of the Complaint.

3 Penalties, Fees, Collection

Any Vermont Municipal Complaint not answered shall be subject to the penalties, fees and collection methods as established by the Vermont Judicial Bureau.

ARTICLE 7 - Enforcement

Enforcement officials shall include any officer from the Fair Haven Municipal Police Department and/or any properly certified Town of Fair Haven Constable who shall issue and pursue before the Judicial Bureau a municipal complaint for violation of this ordinance.

ARTICLE 8 - Additional Enforcement Provisions

A law enforcement officer who does not personally witness the prohibited conduct may obtain from the complainant a written sworn statement giving specific details of the prohibited conduct and inform the complainant they will be required to appear in court if the violation is contested.

ARTICLE 9 - Repeal

Any other ordinance, amendment or regulation relating to Noise in the Nightime is hereby repealed.

ARTICLE 10 - Separability

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

ARTICLE 11 - Amendments

This ordinance may be amended by a majority vote of the Board of Selectmen at any duly constituted meeting in accordance with 24 VSA Section 1972.

ARTICLE 12 - Effective Date

This ordinance shall become effective 60 days after its adoption by the Fair Haven Select Board unless a petition requesting voter approval is submitted within forty-five (45) days following adoption as provided in 24 V.S.A. § 1973.

If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this _____ day of _____ 2010 By the Fair Haven Board of Select Board

Ron Adams, Chair

Ray Bunker

Julie Ellis

Jeff Sheldon

Claire Stanley