

**TOWN OF MIDDLEBURY SELECTBOARD  
PUBLIC HEARING ON PROPOSED AMENDMENT  
TO THE TOWN OF MIDDLEBURY'S ORDINANCE FOR THE REGULATION OF NOISE**

The Middlebury Selectboard will hold a Public Hearing at 8:00 PM on Tuesday, January 24, 2023 in the Large Conference Room of the Middlebury Town Offices, 77 Main Street, Middlebury, Vermont 05753, and via Zoom videoconferencing (instructions below) to take public testimony on a proposed amendment to the Town's Ordinance for the Regulation of Noise as follows (language to be added is underlined, and deleted language has a strikethrough).

**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.~~
- a. ~~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.~~

**SECTION 201 - Quiet Hours**

- a. ~~No person or persons shall make or continue, or cause to be made or continued, noise as defined in Section 200 of this ordinance between 10:00 p.m. and 7:00 a.m. Sunday through Thursday. Such noise shall be deemed prima facie unreasonable upon complaint of a third party.~~
- b. ~~No person or persons shall make or continue, or cause to be made or continued, noise as defined in Section 200 of this ordinance between 11:00 p.m. and 7:00 a.m. Friday, Saturday and special holidays (New Years Eve and Fourth of July). Such noise shall be deemed prima facie unreasonable upon complaint of a third party.~~

**SECTION 202 - Commercial Activities**

- a. Construction noises. The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street ~~shall not take place 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.

- b. Trash removal. The removal of household and commercial trash by ~~authorized~~ commercial trash haulers utilizing mechanized conveyances from all residentially zoned areas ~~shall not take place~~ between the hours of 9:00 p.m. and 6:30 a.m.

**ARTICLE III - EXEMPTIONS**

- a. 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.
- b. Any activities permitted under Public Assemblages ~~or other licenses~~, 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**

**Section 501 - Civil Violation.**

A violation of this ordinance shall be a civil matter which shall be enforceable by the town pursuant to Title 24 V.S.A. §1974a and any other applicable provision of law.

**Section 502 - Penalty**

A person who violates any provision of these regulations shall be fined not more than eight-hundred dollars (\$800) for each offense, with a waiver fine of two-hundred dollars (\$200). Each violation shall constitute a separate offense.

**ARTICLE VII - INTERPRETATION AND SEPARABILITY**

**Section 600 - 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 601 - 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 602 - 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

Amended: 13 April 2021, Effective 23 May 2021

Amended:

**To view and participate in the Public Hearing:**

Zoom URL:

<https://us02web.zoom.us/j/81266462187>

**By phone:** +1 646 558 8656 (not toll free)

**Webinar ID:**

812 6646 2187

**For those wishing to watch but not participate:**

Selectboard Meetings are livestreamed to MCTV's YouTube channel:

<https://www.youtube.com/user/MCTV/Vermont>

and also broadcast live on **Comcast Channel 1071.**