

**FINAL**



**WEARE BOARD OF SELECTMEN  
MEETING MINUTES  
November 16, 2015  
Second Public Hearing on Noise Ordinance**

**PRESENT:** KEITH R. LACASSE, CHAIRMAN; TOM CLOW, VICE CHAIRMAN; JAMES LEARY, SELECTMAN; JENNIFER BOHL, SELECTMAN; FREDERICK W. HIPPLER, SELECTMAN

**RECORDING SECRETARY:** Kathleen Humphreys

**TOWN ADMINISTRATOR:** Naomi Bolton (absent)

**GUESTS:** Frank Campana, Peter Ashworth, Tom Vaughn, S. Grant, Harry Hadley, Travis Corcoran, Jennifer Sims, Selme Al Abbas, Jennifer Quinlan, Sean Wood, Charles Wood, Joe Junelt, John L. Girard, Maria Antonetti, Mario Antonetti, Jessica Nelson, David Nelson, Richard Colburn, Ronald Lover, Rosemarie Gilman, D. Hewey, Sr., Christine Lynady, Del A. Rice, John Vanloendersloot, Edward Luppi from GF&GA, Tim Sizemore, Eldon Townes, Eldon Reynolds, Mr. Howell, Sr., Cindy Griswall, Ed Sandborn, Ann Ruff, Lisa Purington and others.

**7:00 p.m. Chairman Lacasse called the meeting to order. Meeting was held at Town Hall**

**PUBLIC HEARING:** 2<sup>nd</sup> - Proposed Noise Ordinance.

To hear public testimony and comment on proposed Noise Ordinance that would regulate unreasonable noise.

**TOWN OF WEARE**

**Proposed Noise Ordinance**

- I. It shall be unlawful in the Town of Weare to cause a breach of the peace by making loud and unreasonable noise in a public place, or making loud and unreasonable noise in a private place which can be heard in a public place or private place which noise disturb a person of average sensibilities.
- II. A "noise disturbance" shall mean an unreasonably loud noise which either disrupts, injures, or endangers the comfort, response, health, peace or safety of others.
- III. It shall be unlawful to cause noise disturbance between the hours of 11:00 p.m. and 5:00 a.m. created by unloading, opening, closing or otherwise handling of boxes, crates, containers, building material, trash cans, dumpsters or similar objects.
- IV. It shall be unlawful to cause noise disturbance between the hours of 11:00 p.m. and 5:00 a.m. Monday through Sunday created by the following: The operation or use of construction vehicles and equipment to include but not limited to bulldozers, graders, dump trucks, backhoes, cement mixers, power hammer, staple or nail guns, power tools such as drills, saws, grinders, chainsaws, lawn mowers, hedge trimmers, lawn edgers and hammers. Also noise disturbance caused by social gatherings and loud music. (See section VII for exceptions.)

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V. It shall be unlawful to cause noise disturbance from target practice or private or public land from one half hour after sunset to one half hour before sunrise Monday through Sunday. At any other time during the day, continuous noise emanating from said activity shall last no more than three consecutive hours per day from the time the first round is fired. This noise ordinance shall not apply to public or private club shooting ranges except for the half hour after sunset to half hour before sunrise restriction stated above.

VI. It shall be unlawful for any person to operate a motor vehicle, on a public way or right of way, so as to make any loud, unusual or unnecessary noise caused by any one or more of the following actions by the operator; misuse of power; exceeding tire traction limits in acceleration where there is no emergency; misuse of breaking power acceleration by means of quick up-shifting of transmission gears with either a clutch or manual transmission or automatic transmission; alteration of a vehicle that results in loud noise emitting from exhaust system; the sounding of any horn or signaling device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust.

## PUBLIC COMMENTS

Peter Ashworth stated that the growth of population of Weare has given the town noise and there is a need to regulate those who are not responsible. He likes to shoot his guns but self-limits it to a half-hour out of respect for his neighbors. He thinks the town needs a noise ordinance.

Vice Chair Tom Clow reviewed the changes made after hearing public comments from the first hearing. (see above for revised noise ordinance)

Edward Luppi presented the following letter:

*"My name is Edward J. Luppi II. I am the President of Goffstown Fish & Game Association, Melvin Valley Road in Weare, NH. I am here to represent the 230 members of our club.*

*Goffstown Fish & Game Association is an Incorporated Club under State Law with multiple ranges at our facility.*

*I have read and issued copies of your current Draft Noise Ordinance and on behalf of the membership offer the following comment.*

*Please see: State of New Hampshire, TITLE XI PUBLIC SAFETY AND WELFARE, Chapter 159-B, Shooting Ranges.*

*Upon review of Ordinance Paragraph V., We recommend: 1. Strike the last sentence, "This ordinance shall not apply to public or private club shooting ranges except for the half hour before sunrise and half hour after sunset restriction stated above," or. 1. Amending the paragraph to include (add on) "Public or private club shooting ranges **not in operation prior to the adoption, enactment, enforcement, or proposal of this ordinance**".*

*The above mentioned sentence as written, would be in conflict with Title XII, paragraph: 159-B:4 and Goffstown Fish & Game Association, as a grandfathered club under this chapter, would not apply.*

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*I would further like to re-state that our club rules and by-laws that apply to its membership in its entirety currently prohibit the discharge of any firearms between the hours of 9:00 a.m., and 7:00 p.m. or sunset, whichever comes first, on club ranges. A violation of which, can result in expulsion from the club. We voluntarily set these rules out of courtesy to our neighbors."*

End of letter

Mr. Luppi also submitted: TITLE XII PUBLIC SAFETY AND WELFARE and highlighted the following RSAs: Chapter 159-B, Shooting Ranges; Section 159-B:2, Section 159-B:3, Section 159-B:4, Section 159-B:5, Section 159-B:6 and Section 159-B:8.

Resident John Vanloendersloot wondered if fireworks have been overlooked in the ordinance. He feels they are a problem.

Christine Lynady asked if the police will patrol on holidays such as New Year's Eve and will it be an issue with fireworks on holidays.

Chairman Lacasse said that fireworks can be addressed.

Eldon Townes asked if Chief Kelly could explain the law on disturbing the peace. The chief asked if he was referring to Disorderly Conduct RSA. Mr. Townes asked if they would want more officers to enforce this. The Chief said they do want more officers, not just because of this, but because the town wants police coverage 24/7.

Travis Corcoran said when he left Massachusetts and looked at the laws in Weare, he was happy with them. He wonders if this law would not be enforceable. He does not think that private guns clubs are well defined in the ordinance and has a problem with private gun clubs that are grandfathered. He wanted to refute the earlier comment that Weare sounds like a war zone. He felt that fireworks intent should be written down.

Lisa Purington questioned "loud and unreasonable noise" and "average sensibility" and wanted to know if there was a definition. Her point is as citizens they are leaving this up to interpretation. She said in Weare is a rural community and residents do things that makes a lot of noise. She thinks this will have neighbors fighting with neighbors and that does not make sense.

Vice Chair Clow reminded the audience they are here to gather input to help control the noise from 11:00 p.m. to 5:00 a.m.

Jennifer Quinlan lives on the back side of Horace Lake and has concerns on the application on this law as it is written. She has lived on the lake for 20-years and said there are certain lifestyles to expect and noise and there needs to be some reasonability. She has problems with #1, #4 and #7. Ms. Quinlan said that they go get a fire permit every year and enjoy sitting by the campfire after work and weekends. With permission from the town there are events on Horace Lake every Friday and every Saturday all summer long and it's impossible as a homeowner to enjoy sitting outside by her campfire and to have a conversation. It's impossible for her family to go to sleep at 10pm or 11pm with the windows opened because "the music is insane". Her concern is they have permission and make a profit while the neighbors can't enjoy their property. She felt there are discrepancies in the draft ordinance and some areas are vague.

Chairman Lacasse said for now the Board is listening to residents and can't answer all question tonight. The Board will consider additional provisions from residents' concerns.

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Del Rice felt the people here tonight are reasonable and there are people who, without regulations with teeth, will give you a hard time. Mr. Rice wanted to ask Chief Kelly why they can't use the state statute and common courtesy. Chief Kelly responded the state statute is applicable 24 hours and the police can take a step on the resident's behalf. Between 11:00 p.m. and 5:00 a.m. the police do not have to knock on your door and asked if you are being disturbed to take someone to court and this is mostly for their convenience.

Mary Gregory questioned why her complaints in the past were not dealt with.

The police chief explained if there is a disturbance at night the judicial state law said the police can't get involved and if she called the police she would have to agree to come to court and participate.

Eldon Townes had a concern there are people who will abuse this noise ordinance.

David Hewey, Sr. mentioned he has problems with fireworks at 2:00 a.m. He is comfortable with 11:00 p.m. to 5:00 a.m. and said that people do not run their excavators at 2:00 a.m.

Cindy Griswall asked for a definition on emergency generators. She works from home and said if the power goes out she can't work without a generator. Chairman Lacasse said that generators were added to the exemption list because the town is rural and tends to lose power.

Travis Corcoran did not want to give the police any incentive. He also said "This is for discussion purpose and it's not to pass this law but a law." He also said the Board may want to look at state laws. Chairman Lacasse responded a noise ordinance was brought up at last year's deliberative session and the town residents voted for the Selectmen to look into it.

Jessie Nelson asked Chief Kelly if this passed, would residents be able to make complaints. The chief said the resident making the complaint would not have to be identified.

Ed Sanborn felt this noise ordinance stems from a small minority of people complaining about their neighbors and the rest of the residents have to live with the consequences. He has concerns the ordinance could become more restrictive as the years pass.

Eldon Townes suggested adding an exemption to grandfather businesses.

Selma Al Abbas welcomes the guidelines. She felt the town was quiet and peaceful but has become noisy over the last 2-3 years. She thinks most people are reasonable. She has heard fireworks late at night, cannons, super loud exhausts and gun firing all weekend long, even holidays. She would like to see #5 enhanced. She has concerns about inspecting backyard fire ranges. She wondered why she needs a permit for a camp fire but not to fire guns.

Tom Vaughan wanted to make a positive comment on the moment of silence before tonight's meeting. He has concerns the Board is anti-business. He wanted to address Industrial Zoning and noted home businesses work before 5:00 a.m. He felt the ordinance was in conflict with the right to farm. He also had concerns about anonymous complaints.

Tim Sizemore wanted to remind the Board this state is "Live free or die." He said that he shoots on his property. A woman shouted out, "That's your Constitutional right" and Sizemore added, "It's the sound of freedom."

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Tim Gilman works nights and has concerns about the hours of the ordinance. He suggested abolishing the ordinance.

Ann Ruffe believed it is good to have a tool when you should need it, especially when people are woken up during the night with noise.

Christine Lynady inquired if residents can call the police without this noise ordinance.

Harry Hadley said that noise is noise and it happens. He has concerns the ordinance defines a few pieces of equipment that help people make money.

Eldon Townes asked if the Selectmen have looked at other town's ordinances. Vice Chair Clow replied they have look at many town's noise ordinances. Mr. Reynolds felt that people would not want to move to a town with a town ordinance.

Jennifer Quinlan said she heard both sides. She and her husband are avid supporters of the Constitution but this noise ordinance is to address people who are being unreasonable. She felt the town needs tools and education to make it reasonable for everyone.

Frank Campana asked if this noise ordinance passes, who would enforce it? He was informed the police would enforce it. He mentioned that police officers use to be called "peace officers" years ago. He believes the responsibility should be on the police.

Mr. Fontaine said to strike this noise ordinance out because there should be no time limit on freedom.

Chairman Lacasse informed the guest an updated ordinance will be posted on the town's website. There will be additional time to comment at the Deliberative Session which will be held on Saturday, February 6, 2016 at Weare Middle School.

A resident asked Chief Kelly if this is enforceable. Chief Kelly responded that the state statute does need a complaint. In New Hampshire if a person identifies themselves the department can go ahead with the complaint. The man also had concerns about a person making unreasonable complaints which could create a waste of the police department's time. He said his officers will be trained.

Tom Vaughn asked to abolish the warrant and that when it comes to the deliberative session not to pass it.

VOTE: Chairman Lacasse made a motion, Selectman Bohl seconded to close the public hearing. Motion passed 5-0-0.

VOTE: Chairman Lacasse made a motion, Selectman Bohl seconded to adjourn at 8:40pm. Motion passed 5-0-0.

A True Record.

Kathleen Humphreys, Recording Secretary