

ORDINANCE # 03/05/2012

TOWN OF FORT WINNEBAGO NOISE CONTROL ORDINANCE

The Town Board of the Town of Fort Winnebago, Columbia County, Wisconsin, does ordain as follows:

SECTION 1. TITLE This Ordinance is entitled the “Town of Fort Winnebago Noise Control Ordinance.”

SECTION 2. AUTHORITY AND PURPOSE

The Town Board has the authority to promote and protect the health, safety and general welfare of the citizens and inhabitants of the Town. Pursuant to this end, the Town establishes this Ordinance to regulate noise within the Town’s borders. This Ordinance is enacted pursuant to *Wis. Stats.*, Chapter 60.

SECTION 3. PROHIBITION OF NOISES DISTURBING THE PUBLIC PEACE

(1) **General.** No person shall make or cause to be made, any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or unreasonably disturb a person with ordinary sensibilities in or about any public road or any private residential property. The making or causing of any such sounds or noises in a manner as to be plainly audible at the property line of the premises from which such sounds/noise emanate shall be prima facie evidence of a violation of this subsection.

(2) **Public Address Systems and Amplifiers.** No person or entity occupying or in charge of any premises or part thereof shall use or operate, or allow others to use or operate on those premises, any public address system, instrument, amplifier, machine or other device which increases the volume of voice, music or other sounds so loud as to unreasonably disturb the public peace or the quiet and peacefulness of persons in the surrounding neighborhood. The operation of such device in a manner as to be plainly audible at the property line of the premises from which such sounds/noise emanate shall be prima facie evidence of a violation of this subsection.

(3) **Exemptions.** The following activities shall be exempted from this ordinance:

(a) Activities provided under law for the protection or safety of people or property, including but not limited to police, emergency and other governmental activities.

(b) Equipment such as farm equipment, lawn mowers, snow removal equipment and construction equipment, which are needed for agricultural purposes or for the maintenance or improvement of property.

(c) Auctions of the property owner’s personal property and/or real estate.

SECTION 4. SPECIAL EVENT PERMITS. Temporary variance permits, to be known as "Special Event Permits" may be issued by the Town Board to permit a person or entity to temporarily exceed the noise standards set forth in this ordinance for a special event or special activity. The following conditions and procedures shall apply to such permits.

(1) **Types of Activities/Events.** Special Event Permits may be issued for the following types of events/activities:

- (a) For special community events and community festivals.
- (b) For non-commercial events/activities such as weddings and anniversaries where no alcohol or food is sold.
- (c) For events/activities occurring on premises which are licensed for the sale of beer or other alcoholic beverages.
- (d) For other events/activities that are permitted under applicable zoning regulations.

In no event, may more than four (4) Special Event Permits be issued for events/activities occurring on the same premises, in any calendar month.

(2) **Application.** An application for a Special Event Permit, along with the application fee, set by the Town Board, shall be filed with the Town Clerk not more than ninety (90) days nor less than forty five (45) days before the commencement of the noise producing event/activity, on forms provided by the Town Clerk. The application shall be signed and sworn to by the applicant, if an individual; one partner, if a partnership; or by a duly authorized agent, officer or member, if a corporation or limited liability company. The application shall include:

- (a) The name, address and telephone number of the applicant;
- (b) The address of the premises where such event/activity is proposed to occur;
- (c) The date and period of time for which the permit is sought;
- (d) A description of the type of entertainment to be held on the premises and equipment to be used which would generate sound/noise;
- (e) Steps to be taken to minimize noise/sound emanating from the premises;
- (f) Name, address, phone number and date of birth of the responsible person who will be present on the site during the event/activity;
- (g) Such other reasonable and pertinent information as the Town Board or its designee may require.

(3) **Comment Period.** Each permit sought shall require a separate application and the period covered by the permit shall not exceed one day. The Town Clerk upon receiving the application shall send notice of the application, along with a copy of the application, to all landowners who own any parcel located within 300 feet of the premises. Any comments or objections shall be filed with the Town Clerk within ten (10) days after the date of the mailing of that notice.

(4) **Review and Decision by Board Designee.** After completion of that comment period, the application, along with any objections/comments filed, shall be referred to the Board member designated by the Town Board to handle those applications (hereinafter the "Board Designee"). The Board Designee shall, within ten (10) days thereafter, determine whether to deny or approve the application and may condition the approval of an application upon a modification of the hours of operation and the types of noise producing activities and may impose other conditions to limit noise/sound emanating from the premises. The Board Designee shall inform the Town Clerk of his or her decision on the application. In making a determination, the Board Designee shall consider the following factors:

- (a) The appropriateness of the location and premises for which the permit is sought and whether the activity for which the permit is sought will create undesirable neighborhood problems.
- (b) The hours during which the activity will be operated on the premises and the likely effect of the activity on the surrounding area.
- (c) Whether previous permits granted to the same applicant or to other applicants for the same premises have resulted in neighborhood problems, included but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.
- (d) The number of Special Event Permits already issued in that same neighborhood during the preceding weeks and months.
- (e) Past violations of this ordinance for events/activities on the same premises.
- (f) Any other factors which reasonably relate to the public health, safety and welfare.

(5). Appeal to Town Board

- (a) If an application is approved by the Board Designee, and no objection has been filed, then the Town Clerk shall issue the Special Event Permit.
- (b) If the application is denied by the Board Designee, the Applicant shall have eight (8) days after notice is mailed to the applicant to file an appeal with the Town Clerk and pay the appeal fee set by the Town Board. Upon the timely filing of an appeal and timely payment of the appeal fee, the

Clerk shall forward the application on to the Town Board for a hearing on the appeal of the decision of the Board Designee.

- (c) If a written objection to the application is timely filed by any interested person, the objecting party shall be provided with written notice of the Board Designee's decision to approve the application and shall have eight (8) days after notice is mailed to the objecting party to file an appeal with the Town Clerk and pay the appeal fee set by the Town Board. Upon the timely filing of the appeal and payment of the appeal fee, the Clerk shall then forward the application to the Town Board for a hearing on the appeal of the decision of the Board Designee.

- (6). **Hearing Procedure.** The hearing shall be held before the Town Board. The Board Designee shall not vote on the application at that hearing or participate in the deliberations on the appeal, but the Town Clerk shall participate and vote in his/her place along with the other Town Board Members.

- (a) Any hearing required under this subsection shall be an evidentiary hearing. No hearing shall be heard unless the Town Clerk provides the applicant and any objector with a written notice. Such notice is to be sent by regular US Mail at least eight (8) days prior to the hearing date.
- (b) The Town Board may affirm, reverse or modify the action of the Board Designee.
- (c) Written notice of the Town Board's decision is to be mailed to the applicant and any objectors. The Town Board's decision shall be final.
- (d) If the Town Board, after the hearing, grants the permit, the Town Clerk shall issue the Special Event Permit subject to any conditions or limitations set by the Town Board.

- (7). **Posting.** When a Special Event Permit is issued, it shall be posted in a conspicuous location at the front of those premises, commencing at least two (2) days before the special event/activity through the conclusion of the special event/activity.

SECTION 5. ENFORCEMENT

This ordinance may be enforced by the Town Board, any local or state health official, or any law enforcement official authorized to act within the Town. The Town Board, by resolution, may also designate such other officials or individuals as the Town Board deems appropriate to enforce this Ordinance.

As part of the application, the Applicant shall authorize anyone, who is approved by the Town Board to enforce this Ordinance, to enter upon the premises for the purpose of monitoring and

enforcing compliance with the terms and conditions applicable to the Special Event Permit issued to applicant.

SECTION 6. PENALTIES

- (1). **First Offense.** Any person or entity who shall violate any provision of this ordinance shall, upon conviction thereof, forfeit not less than \$100.00, nor more than \$500.00, together with the costs of prosecution.
- (2). **Subsequent Offense.** Any person or entity found guilty of violating this ordinance who shall previously have been convicted of a violation of this same ordinance shall, upon conviction thereof, forfeit not less than \$250.00 nor more than \$1,000.00 for each such offense, together with the costs of prosecution.

SECTION 7. INJUNCTION: ADDITIONAL REMEDY

Any violation of this Ordinance shall be deemed and is declared to be, a public nuisance. Accordingly, anyone violating this Ordinance, in addition to other remedies, shall be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.


SECTION 8. SEVERABILITY

If any provision, clause, sentence or paragraph of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Ordinance which can be given effect without the invalid provisions or application and to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 9. EFFECTIVE DATE

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by §60.80, *Wis. Stats.*

Adopted this 5th day of March, 2012.


William Schroeder, Chairperson

Attest: 
Kristine Conway, Clerk

Published/Posted: 03-19, 2012