



OFFICE  
OF THE  
TOWN COUNCIL

## Town of South Windsor

1540 SULLIVAN AVENUE • SOUTH WINDSOR, CT 06074-2786

AREA CODE 860/644-2511

FAX 860/644-3781

### TO BE PUBLISHED IN THE JOURNAL INQUIRER

January 29, 2018

#### LEGAL AD

#### TOWN OF SOUTH WINDSOR

Notice is hereby given that the South Windsor Town Council has set Monday, February 5, 2018, at 8:30 p.m., in the Council Chambers of the South Windsor Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut as the time and place for a Public Hearing to receive citizen input on the Establishment of a Construction Noise Ordinance, a copy of which is on file in the Office of the Town Clerk.

Dated at South Windsor, Connecticut this 26<sup>th</sup> day of January 2018.

Attested to by:

Deborah W. Reid  
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Clerk of the Council

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| Dated at South Windsor, Connecticut this 26th day of January 2018.  |  |
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| Journal Inquirer<br>January 29, 2018  |  |

## **Construction Ordinance**

### **§ 1-1. Legislative findings; purpose.**

- A. Demolition and/or construction activity in Residential Districts during early morning or late evening hours is a detriment to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the Town of South Windsor.
- B. The need for regulation of such demolition and/or construction activity is a matter of legislative determination and public policy, and this chapter is adopted in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, peace and quiet of the Town of South Windsor and the people therein.
- D. Nothing in any portion of these regulations shall be construed in any manner as authorizing or legalizing the creation or maintenance of a nuisance. Compliance with these regulations is not a bar to a claim of a nuisance by any person. A violation of any portion of these regulations shall not be deemed to create a nuisance per se.

### **§ 1-2. Definitions.**

When used in this chapter, the terms below shall have the following meanings:

Construction: The assembly, erection, substantial repair, alteration, demolition, or site-preparation for public or private right-of-ways, buildings or structures, utilities or property.

Demolition: Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Holiday(s): New Year Day, President's Day, Martin Luther King Day, Columbus Day, Easter, Memorial Day, Fourth of July, Veteran's Day, Labor Day, Christmas Day, Thanksgiving Day and any other holidays designated by State statute.

Motor Vehicle: A vehicle as defined in the Connecticut General Statutes § 14-1(53), as amended, and Motorcycles as defined in the Connecticut General Statutes § 14-1 (54).

Person: Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state or other legal entity of any kind.

Plainly audible: Any sound that can be detected by a person using his or her unaided hearing faculties. For example, but not limited to, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

Premises: Any building, structure, land, or other real property, including all parts thereof and appurtenances thereto owned or controlled by a person.

Property Line: The real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from public right-of-way.

Property Maintenance Equipment: All powered or manually operated tools and equipment used in the repair and upkeep of property, including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, and leaf blowers.

Public emergency sound signal: A device either stationary or mobile, producing audible signal associated with a set of circumstances involving actual or imminent danger to persons or damage to property, which demands immediate action.

Public facility maintenance: All activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

Residential District: Those areas that primarily consist of residential and multi-family dwellings so designated in the current Zoning Regulations and on the Zoning Map of the Town of South Windsor.

Sound: A transmission of energy through solid, liquid or gaseous media in the form of vibrations that constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to, an auditory response when impinging on the ear.

**§ 1-3. Standards.**

**A. Demolition and/or Construction Activity.**

- 1) No person, firm, corporation or other entity shall operate or permit the operation of electric or fuel powered equipment, including but not limited to pile drivers, backhoes, pneumatic hammers, derricks, trucks (loaders, bulldozers, graders, compactors, etc) of more than 10,000 pounds gross vehicle weight (GVW) on a construction site, and hoists required for construction, repair or demolition work between the hours of 5:00 p.m. and 7:00 A.M. Monday through Saturdays or at any time on Sundays and official state holidays.

**§ 1-4. Exemptions.**

The following shall be exempt from the provisions of this chapter:

- 1) Operation of domestic construction and property maintenance equipment between 7 a.m. and 9 p.m., except on Holidays.
- 2) Operation of engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that exhausts are adequately muffled to prevent loud and/or explosive noises therefrom.
- 3) Operation of snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- 4) Operation of equipment of the Town, State or utility companies constructing or maintaining public infrastructure.
- 5) Emergency work which is required for the protection or preservation of property or health, safety, life or limb of a person, including use of emergency or portable generators during periods of power outages.

**1-5. Variance.**

- A. Any person residing or doing business in the Town of South Windsor may apply to the Town Council or its designated representative for a variance for not more than one year from the provisions of this Chapter, provided that the applicant, at least forty-five (45) days prior to the date of said activity, provides the Town Manager with a written request for a variance to be acted on by the Town Council containing all of the following information:
  - 1) The location and nature of activity;
  - 2) The time period and hours of operation of said activity;
  - 3) The nature and intensity of the demolition and/or construction activity;
  - 4) Any other information required by the Town Manager.
- B. No variance from this Chapter shall be issued unless it has been demonstrated that:
  - 1) The proposed activity will not constitute a danger to the public health; and
  - 2) Compliance with this Chapter constitutes an unreasonable hardship on the applicant provided that such hardship is not the result of the applicant's own actions or inaction.
- C. The application for variance shall be reviewed and either approved or rejected at least five days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- D. Failure to rule on the application in the designated time shall constitute approval of the variance.
- E. The Council or its designated representative may impose reasonable conditions on the granting of any variance within its sole discretion.

**§ 1-6. Hindering compliance-Prohibited.**

- A. No person shall hinder or interfere with by force or otherwise, the performance by any duly authorized agent or employee of the Town of South Windsor of any duty to comply with or enforce the provisions of this Chapter.
- B. No person shall allow on any property or premises owned or leased by him any activity that violates or fails to comply with this Chapter, or the terms or conditions of any permit, variance or order issued pursuant to this Chapter.

**§ 1-7. Penalties for offenses.**

The first violation of any of the provisions of this chapter shall be punished by a fine not to exceed \$100. Each day any such violation shall continue or each act in violation of this Chapter shall constitute a separate offense. The second violation by any person or entity of any provision of this chapter shall be punished by a fine of \$175. Subsequent violations of any provision of this chapter shall be punished by a fine of \$250.

**1-8. Enforcement.**

- A. Any person aggrieved by any act constituting a violation of this Chapter may complain to the South Windsor Police Department which shall enforce these provisions, with or without complaint.
- B. This Chapter shall be enforced by citations issued by the designated municipal officers or employees in accordance with Connecticut General Statute Sections 51-164m and/or 51-164p Violations of Municipal Ordinances (penalty greater than \$90.00 but not more than \$250.00).
- C. The appeal of any such Infraction Ticket issued for Violation for Municipal Ordinances shall be via the Centralized Infraction Bureau and Connecticut Superior Court system pursuant to C.G.S. Sec. 51-164n.

**§ 1-9. Severability**

All provisions of the Charter, Ordinances and/or any applicable law(s) which are more stringent than those set forth herein, remain valid and may be enforced in addition to the provisions of this Chapter. If any section, paragraph, sentence, clause or phrase of this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portion of this ordinance or any part thereof.

**THIS ORDINANCE WILL TAKE EFFECT IN ACCORDANCE  
WITH THE TOWN CHARTER**