

MINUTES

REPRESENTATIVE TOWN MEETING

AUGUST 2, 1993

WATERFORD TOWN CLERK

1993 AUG -9 PM 4:47

VOL.

The Regular Meeting of the Representative Town Meeting, was called to order at 7:38 P.M. by Moderator Donald K. Blevins.

ROLL CALL

PRESENT: Victor J. Bartolucci, Marcia A. Benvenuti, Donald K. Blevins, John R. Bodin, Mark Burnham, Michael J. Cannamela, George A. Henault, Keith L. Jensen, Lynn R. MacMorrow, Francis G. Mullins, Joan B. Petro, S. Derek Phelps (7:39 P.M.), Janet K. Reidy, Ivan J. Sadler, Paul L. Severance, John W. Sheehan.
 ABSENT: Vincent M. D'Arinzo, Barbara R. Hanna, John Merrill, Jr., Herbert F. Moran.

EX-OFFICIO MEMBERS PRESENT: First Selectman Thomas A. Sheridan, Selectmen David B. Fairman and David T. McDaniel, Chair of the Board of Finance Jeffrey C. Hall, and Chair of the Board of Education Elizabeth A. Bresser.

THE PLEDGE OF ALLEGIANCECALL ITEM 1 - Minutes

MOTION by Severance, seconded by Bartolucci, to accept the minutes of the Regular Meeting of June 7, 1993.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Burnham, Cannamela, Henault, Jensen, MacMorrow, Reidy, Sadler, Severance, Sheehan.

ABSTAINING: Mullins, Petro.

CALL ITEM 2 - Committee Reports

MOTION by Benvenuti, seconded by Severance, to accept committee reports.

VOTING IN FAVOR: Unanimous.

COMMITTEE ASSIGNMENTS

LEGISLATION AND ADMINISTRATION:

Development of Criteria For Awarding Contracts

EDUCATION:

Housing Authority/Housing Partnership

PUBLIC WORKS, PLANNING AND DEVELOPMENT:

Use of Town-owned Vehicles on Private Property

ADDITION TO THE CALL - Appointments to Police Commission

MOTION by Sheehan, seconded by Phelps, to add the appointments to fill two vacancies on the Police Commission as Call Item 16.
VOTING IN FAVOR: Unanimous.

CALL ITEM 3 - Neighborhood Assistance

MOTION by Benvenuti, seconded by Sadler, to forward to the Department of Human Resources the program proposal by the Waterford Country School for inclusion in the 1993 Connecticut Neighborhood Assistance Act Program as recommended by the Education Standing Committee of the Representative Town Meeting.
VOTING IN FAVOR: Unanimous.

CALL ITEM 4 - Noise Ordinance
(See Attachment)

MOTION by Cannamela, seconded by Henault, to approve a proposed Noise Ordinance as recommended by the Public Health, Recreation and Environment Standing Committee of the Representative Town Meeting.

DISCUSSION: Several Friendly Amendments of a "housecleaning" nature were introduced by Committee Chair Cannamela and agreed to by Committee Member Henault. Cannamela noted other changes that eliminated specific references to the Waterford Speed Bowl in the redraft since a proposed ordinance was recommitteed by the Representative Town Meeting at their Regular Meeting of June 7, 1993. Cannamela opined that the proposed ordinance was fair and, like any ordinance, was not "carved in stone." The committee's work is not finished and, in the meantime, the speed bowl has promised to return by September 1, 1993 regarding their efforts at noise abatement at the track. A range of opinions were offered by 10 or 11 members of the RTM, several of whom commended the committee for their efforts. Among concerns expressed was the fact that the proposed ordinance was so all-encompassing (i.e., too restrictive) that it could lead to neighborhood squabbles, which in turn raised the issue of enforcement. On the other hand, it was felt by some that such an ordinance would provide the answers for resolutions of problems among neighbors.

Several Waterford residents spoke against the redrafted noise ordinance. Peter Storms cited the increase in the use of the track in recent years and the need to limit the number of events. Also, the town has a right to legislate non-conforming uses in a residential area. Storms addressed a number of other matters: meetings that the northern Waterford group were not involved with; the Town Attorney and conflict of interest, i.e., the RTM should have their own counsel; the role of money, influence and power; the appeal process; the definition of "mobile source" of noise. Storms concluded by recommending the tabling of the motion. Carl Cascio felt the ordinance was not complete since it did not deal specifically with the speed bowl and he wondered how the problem could be resolved. Cascio also raised the issue of the high noise levels as a public health concern. Joe Petro

expressed concern over the matter of definitions and enforcement. Mike Gorton felt the matter was a problem between the speed bowl and northern Waterford residents. The proposed ordinance was a "can of worms" so far as enforcement and equal treatment. Al Menghi noted that the speed bowl was in the area before most of the residents and didn't feel there was an adverse impact on property values. Terry Eames, spokesman for the speed bowl owners and operators, expressed a number of "truths" regarding the number of events, muffler requirements, practices, increased costs to the town regarding enforcement and health concerns. Written communications dated August 2, 1993 from Carl Cascio and July 28, 1993 from Karen Krohn were received by the RTM.

VOTING IN FAVOR OF THE AMENDED MOTION: Blevins, Bodin, Burnham, Cannamela, Henault, Jensen, Phelps, Reidy, Sadler, Sheehan.

VOTING AGAINST THE AMENDED MOTION: Bartolucci, Benvenuti, MacMorrow, Mullins, Petro, Severance.

RECESS: 9:05-9:13 P.M.

CALL ITEM 5 - Communications from WPCA

MOTION by Sheehan, seconded by Bartolucci, to receive communications from the Water Pollution Control Authority and the Board of Finance with respect to (i) a resolution entitled "Resolution Amending A Resolution Entitled 'Resolution Making Appropriations Aggregating \$7,757,000 For The Acquisition, Constuction and Extnesion Of Lateral And Trunk Sewers And Related Facilities And Water Mains In The Ridgewood Park Area And For The Planning And Design Of Sewerage System Extensions In The Graniteville Area And Authorizing The Issuance of \$7,757,000 Bonds Of The Town To Meet Said Appropriations And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose'." (The purpose of the proposed amendment to authorize the Town to receive funding under the State of Connecticut Clean Water Fund Program to meet a portion of the costs of the Project); (ii) a resolution entitled "Resolution Amending A Resolution Entitled 'Resolution Appropriating \$6,825,000 For The Acquisition, Constuction And Extension Of Lateral And Trunk Sewers And Related Facilities In The Oswegatchie Area And For The Planning And Design Of Sewerage System Extensions In The Ridgewood Park Area And Authorizing The Issuance Of \$6,825,000 Bonds And Sewer Assessment Notes Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose'." (The purpose of the proposed amendment is to authorize the Town to receive funding under the State of Connecticut Clean Water Fund Program to meet a portion of the costs of the Project); and (iii) a resolution entitled "Resolution Appropriating \$1,610,000 For The Acquisition And Constuction Of Sewerage System Extensions In The Graniteville Area And Authorizing The Issuance Of \$1,610,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose."

VOTING IN FAVOR: Unanimous.

CALL ITEM 6 - WPCA

MOTION by Sheehan, seconded by Benvenuti, to approve a resolution entitled "Resolution Amending A Resolution Entitled 'Resolution Making Appropriations Aggregating \$7,757,000 For The Acquisition, Constuction And Extension Of Lateral And Trunk Sewers And Related Facilities And Water Mains In The Ridgewood Park Area And For The Planning And Design Of Sewerage System Extensions In The Graniteville Area And Authorizing The Issuance Of \$7,757,000 Bonds Of The Town To Meet Said Appropriations And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose'."

VOTING IN FAVOR: Unanimous.

CALL ITEM 7 - WPCA

MOTION by Sheehan, seconded by Benvenuti, to approve a resolution entitled "Resolution Amending A Resolution Entitled 'Resolution Appropriating \$6,825,000 For The Acquisition, Constuction And Extension Of Lateral And Trunk Sewers And Related Facilities In The Oswegatchie Area And For The Planning And Design Of Sewerage System Extensions In The Ridgewood Park Area And Authorizing The Issuance Of \$6,825,000 Bonds And Sewer Assessment Notes Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose'."

VOTING IN FAVOR: Unanimous.

CALL ITEM 8 - WPCA

MOTION by Sheehan, seconded by Phelps, to approve a resolution entitled "Resolution Appropriating \$1,610,000 For The Acquisition And Constuction Of Sewerage System Extensions In The Graniteville Area And Authorizing The Issuance Of \$1,610,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose."

VOTING IN FAVOR: Unanimous.

CALL ITEM 9 - PWD/WPCA Renovations

MOTION by Sheehan, seconded by Jensen, to approve a request from the Baord of Selectmen on behalf of the Public Works Department for an appropriation in the amount of \$10,000 from the Designated Fund Balance, Facilities Improvements, in the Capital and Non-recurring Expenditure Fund to proceed with the engineering and design of Public Works/Water Pollution Control Authority renovations, as recommended by the Board of Finance.

DISCUSSION: Minority Leader Phelps expressed concern that there was no cost/benefit analysis in the backup material. He was also unhappy about the way the project is being funded. First Selectman Sheridan explained that though we don't have a crystal ball, that through attrition and associated savings of equipment, as well as the fact that both departments will be working side by side, there will be a more efficient operation and cost savings.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Cannamela, Henault, Jensen, Mullins, Petro, Reidy, Sadler, Severance, Sheehan.

VOTING AGAINST: Burnham, MacMorrow, Phelps.

CALL ITEM - Public Works

MOTION Sheehan, seconded by Bartolucci, to approve a request from the Board of Selectmen on behalf of the Public Works Department for an appropriation in the amount of \$442,500 from the Designated Fund Balance, Co-op Road Reconstruction - Sewer Extensions, in the Capital and Non-recurring Expenditure Fund, for Road Reconstruction on Burlake, Roxwood and Old Norwich Roads, as recommended by the Board of Finance.

BRIEF DISCUSSION regarding road widths.

VOTING IN FAVOR: Unanimous.

CALL ITEM 11 - Retirement Incentive
(See Attachment)

MOTION by Jensen, seconded by Sheehan, to approve a proposed Town of Waterford Retirement Incentive Program as recommended by the Finance, Wage and Personnel Standing Committee of the Representative Town Meeting.

DISCUSSION: After a brief introduction by F,W&P Committee Chair Jensen, there were a number of questions regarding the number of employees affected, eligibility, benefits, "impact bargaining" with the unions, net savings to the Town and funding for the bonus.

MOTION by Bodin, seconded by Phelps, to change "program" to "offer" in Section VI.

VOTING AGAINST: Unanimous.

FURTHER DISCUSSION.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Burnham, Cannamela, Henault, Jensen, MacMorrow, Mullins, Petro, Reidy, Sadler, Severance, Sheehan.

VOTING AGAINST: Phelps.

CALL ITEM 12 - Delay of Demolition Ordinance
(See Attachment)

MOTION by Cannamela, seconded by Henault, to approve a proposed Delay of Demolition Ordinance as recommended by the Public Health, Recreation and Environment Standing Committee of the Representative Town Meeting.

DISCUSSION: PH,R&E Committee Chair Cannamela with agreement by Henault made two changes in the form of "Friendly Amendments": Sec. .030 A, change "50" years old to "75" and Sec. .030 C, change "ninety days (90)" to "sixty days (60)". Issues raised concerned a listing of older buildings in town, the age of the buildings (i.e., 50, 75 or 100) and property rights of individuals.

MOTION by MacMorrow, seconded by Phelps, to change Sec. .030 A from the friendly amended "75" years to "100" years.

VOTING IN FAVOR: Burnham, MacMorrow, Phelps.

VOTING AGAINST: Benvenuti, Blevins, Bodin, Cannamela, Henault, Jensen, Mullins, Petro, Reidy, Sadler, Severance, Sheehan.

ABSTAINING: Bartolucci.

BRIEF DISCUSSION.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Burnham, Cannamela, Henault, Jensen, Petro, Phelps, Reidy, Sadler, Sheehan.

VOTING AGAINST: MacMorrow, Mullins, Severance.

CALL ITEM 13 - Jordan Cove Study

MOTION by Sheehan, seconded by Bartolucci, approve a request from the Flood and Erosion Control Board for a total appropriation in the amount of \$60,000 (\$50,000 from the Designated Fund Balance, Jordan Cove Study and \$10,000 from the Undesignated Fund Balance, both in the Capital and Non-recurring Expenditure Fund) for the purpose of conducting a study of Jordan Cove, as recommended by the Board of Finance.

DISCUSSION: Chairman of the Board, David Benvenuti and board member Gerald Holmberg introduced the purpose and scope of the study. Mullins opposed spending the money for another study, feeling that the cove ought to be left alone to allow Mother Nature to do her will. Town Planner Thomas Wagner offered further explanation and RTM members asked further questions. Residents Howard Russ, Mike Gorton and Ward Alling spoke in favor of the study. Resident William Steimiller reminded the RTM that they had a responsibility to protect property values.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Burnham, Cannamela, Henault, Jensen, MacMorrow, Phelps, Sadler, Severance, Sheehan.

VOTING AGAINST: Mullins, Reidy.

ABSTAINING: Petro.

CALL ITEM 14 - Clark Lane Middle School

In response to Superintendent Randall Collins' letter of August 2, 1993, requesting a temporary withdrawal of the request for an additional appropriation from the General Fund in the amount of \$25,000 for architectural fees for the design development phase of the Clark Lane Middle School Renovation and Addition Project, NO MOTION was made.

CALL ITEM 15 - Compensation of Elected Officials

As there was no recommendation from the Finance, Wage and Personnel Committee, NO MOTION was made.

CALL ITEM 16 - Appointments (Added item)

Moderator Blevins opened the floor to nominations for two appointments to the Board of Police Commissioners for terms of August 2, 1993 - August 1, 1997.

NOMINATION by Sheehan of Maurice N. Blinderman.

NOMINATION by Phelps of John L. DiFederico.

VOTING IN FAVOR: Bartolucci, Benvenuti, Blevins, Bodin, Burnham, Cannamela, Henault, MacMorrow, Mullins, Petro, Phelps, Reidy, Sadler, Severance, Sheehan.

ABSTAINING: Jensen.

ADJOURNMENT - 11:45 P.M.

MOTION to adjourn by Sheehan, seconded by Jensen (11:45 P.M.).
VOTING IN FAVOR: Unanimous.

Respectfully submitted,



Robert M. Nye
Town Clerk

SECTION 1 PURPOSE:

1993 AUG -3 PM 2:59

The making, creation, or maintenance of unreasonable loud, unnecessary, or disturbing noises, as prescribed in this ordinance, affect and are a detriment to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the Town of Waterford. The purpose of this ordinance is to protect, preserve, and promote the public health, safety and welfare insofar as they are affected by the creation and maintenance of excessive or unnecessary noise as defined by this ordinance. This ordinance prescribes a minimum and uniform standard governing the creation and maintenance of noise levels in the community.

SECTION 2 LEGISLATIVE REFERENCES:

This ordinance is adopted pursuant to the provisions of Section 22a-73 of the Connecticut General Statutes. This ordinance is intended to conform to section 22a-69 of the Connecticut General Statutes, except that this ordinance may prescribe a more stringent noise standard as permitted in Section 22a-73(c) of the Connecticut General Statutes.

SECTION 3 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this ordinance. Where terms are not defined under the provisions of this ordinance and are defined in the noise regulations of the Connecticut Department of Environmental Protection, (Sections 22a-69-1.1 and 22a-69-1.2) they shall have the same meanings ascribed to them in those regulations. Otherwise, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

construction: means any, and all, physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling, and paving.

daytime hours: shall mean the hours between 7 AM and 9 PM Monday through Saturday, and the hours between 9 AM and 9 PM on Sunday. (local time)

excessive noise: means emitter Noise Zone levels from noise sources exceeding the standards set forth in Section 5 of this ordinance beyond the boundary of the emitters Noise Zones.

mobile sources of noise: mobile sources of noise shall include, but are not limited to such sources as aircraft, automobiles, trucks and boats.

nighttime hours: shall mean the hours between 9 PM and 7 AM Sunday through Friday, and the hours between 9 PM Saturday and 9 AM Sunday . (local time)

noise zone: means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way, water bodies, and waters of the State.

site: means the area bounded by the property line on or in which a source of noise exists.

sound level meter: means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

SECTION 4 CLASSIFICATION OF NOISE ZONES BY LAND USE:

GENERAL

Noise Zone classifications shall be based on the actual use of any parcel or tract under single ownership, or in the case of Vacant Lands, based on the zoning district in which a parcel is located as detailed herein and described on the Zoning Map and in the Zoning Regulations of the Town of Waterford.

Where multiple uses exist within a given Noise Zone, the least restrictive land use category for the Emitter and Receptor shall apply regarding the noise standards specified in Section 5A of these Regulations.

CLASS A NOISE ZONE/USES

Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land. The land uses in this category shall include, but not be limited to, single and multiple family homes, hotels, motels, religious facilities, hospitals, nursing homes, cultural activities, forest preserves and vacant land zoned for residential or related uses requiring such protection. Residential Zoning Districts: R-20, R-40, RU-120, VR, OS, R-MF, C-MF, CT MF, I-MF

CLASS B NOISE ZONE/USES

Lands designated Class B shall generally be commercial in nature. The land uses in this category shall include, but not be limited to, retail trade, professional offices, personal, business and legal services, educational institutions, government services, amusements, agricultural activities, and vacant lands zoned for such commercial or institutional uses. Commercial Zoning Districts: NB, NBPO, CT, CG, WD, CR.

Lands designated Class C shall generally be industrial. The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, earth products excavation, processing and mining, and other lands zoned for such uses. Industrial Zoning Districts: Zoned IPL, IP3, IC, IC.

SECTION 5: NOISE ZONE STANDARDS:

A. No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her Noise Zone as measured at any point on a Receptor's tract or Parcel of Land, so as to exceed the levels stated herein:

Receptor Noise Zone Class				
	C	B	A-Day	A-Night
Class C Emitter to	70 dB A	66 dB A	61 dB A	51 dB A
Class B Emitter to	62 dB A	62 dB A	55 dB A	45 dB A
Class A Emitter to	62 dB A	55 dB A	55 dB A	45 dB A

Sound levels determined by the Police Department to be in excess of these values shall constitute proof of violation of this ordinance.

B. INTRUSION ALARMS

No person shall cause, suffer, allow, or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle or thirty minutes when attached to any building or structure.

The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

C. HIGH BACKGROUND NOISE AREAS

In those individual cases where the background noise levels caused by sources not subject to these Regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of Section 5A shall emit noise in excess of 80 dBA at any time, and provided that this Section does not decrease the permissible levels of other Sections of this Regulation.

D. IMPULSE NOISE

1. No person shall cause or allow the emission of Impulse Noise in excess of 80dB peak sound pressure level during nighttime hours.
2. No person shall cause or allow the emission of Impulse Noise in excess of 100dB peak sound pressure level at anytime.

E. NOISE EXCURSIONS

In measuring compliance with noise zone standards of Section 5A, the following short term noise level excursions over the noise level standards established by this ordinance shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith.

Allowable levels above standards dBA	Time period of such levels (minutes per hour)
3	15
6	7.5
8	5

F. EXISTING NOISE SOURCES

All existing noise sources shall be provided twenty four (24) months in order to achieve compliance with these Regulations if a notice of violation has been, or may be, issued to the source. This time period begins with the effective date of this ordinance, not with the date of the notice of violation.

G. PROHIBITED NOISE ACTIVITIES

The following are prohibited noise activities:

Truck idling: No person shall operate any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises or on a Town road next to a residential premises. This prohibition shall not apply to vehicles operated by utility companies and the Town while maintaining, repairing, or installing utilities, or road work including pumps and generators needed to support the work. Vehicles involved in Building operations shall be governed by the provisions of Section 7. C.

These Regulations shall not apply to:

- A. Sound generated by natural phenomena.
- B. The unamplified sounding of the human voice.
- C. The unamplified sound made by any wild or domestic animal.
- D. Sound created by bells, carillons, or chimes associated with specific religious observances and/or organizations.
- E. Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, or located within or attached to a building, pole or other structure for the purpose of sounding or testing an alarm relating to fire or emergency management.
- F. Sound created by safety and protective devices.
- G. Farming equipment or farming activity.
- H. Back-up alarms required by OSHA or other State or Federal safety regulations.
- I. Sound created by mobile sources of noise: This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, and has begun the physical process of loading or removing the contents of the vehicle. Nor shall it apply to the operation of equipment or vehicles used in the processing, including destruction of bottles, boxes, crates and containers, junk or other waste material, excepting waste collection. Mobile sources shall include noise from motor vehicles participating in speed or endurance events sanctioned for said use by the Town of Waterford and State Department of Motor Vehicles.
- J. Sound created by construction activities on or uses of State or Federal facilities, lands or rights of ways.

SECTION 7 EXEMPTIONS:

Exempted from this Ordinance are:

- A. Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 8:00 a.m. and 9:00 p.m. provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

- B. Noises created by 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.
 - C. Building operations. The erection including excavating, demolition, alteration or repair of any building, or the excavation of streets and highways, between the hours of 7:00 AM to 9:00 PM on weekdays, and 8:00 AM to 9:00 PM on weekends. Provided that the building operations or operation of construction equipment after the hours listed herein shall not exceed the maximum noise levels as specified in Section 5A. Except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the First Selectman, which permit may be granted and renewed for a period not to exceed five (5) days, which allows these hours to be extended.
 - D. Patriotic or public celebrations, such as parades, carnivals and fireworks displays, not extending beyond 11:00 PM are exempted provided that a permit has been obtained in advance from the Planning and Zoning Commission, or Board of Selectmen as applicable.
 - E. Noise created by blasting when the blasting is conducted between 8:00 AM to 5:00 PM, and provided that a permit for such blasting has been obtained from the Waterford Fire Marshal, except in case of urgent necessity in the interest of public safety, or hardships and then only with a permit from the First Selectman, which permit may be granted and renewed for a period not to exceed five (5) days which allows these hours to be extended.
 - F. Noises created by Emergency Generators at any time when they are being used because of power outages 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.
- SECTION 8 NOISE LEVEL MEASUREMENT PROCEDURES:**
- For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable.
- A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
 - B. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.

C. The general steps listed below shall be followed when preparing to take sound level measurements:

1. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
2. The sound level meter shall be calibrated before and after each set of measurements.
3. The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.
4. Measurements shall be taken and documented at a point that is located approximately one (1) foot beyond the boundary of the emitter's premises within the noise receptor's premises as measured by triangulation and/or public land records. The emitter's premises includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

SECTION 9 VIOLATIONS AND ENFORCEMENT:

A. ENFORCEMENT

1. A Police Officer shall be responsible for making noise level measurements to determine that a violation of Section 5 has in fact occurred. Whenever the Police Officer determines that any of these Regulations have been violated or there has been a failure to comply therewith, the Officer shall make and serve upon the person(s) responsible for the violation a written order specifying the nature of the violation or failure, and affording a reasonable time for its correction or remedy. Prior to the issuance of such order, such officer shall make a reasonable effort in light of the circumstances to correct a violation or achieve compliance by means of conference, conciliation, and persuasion. Unless the person(s) against whom an order has been served files a written answer thereto within thirty (30) days after the date of service of the order and requests a hearing thereon, such order shall become final and effective.

2. The Waterford Police Department shall be responsible for the enforcement of any prohibited activity listed in Section 5G, and conducting any activity listed in Section 7 outside of the hours during which these activities may be conducted. When it has been determined that a violation has occurred it shall constitute an infraction of a local ordinance and shall be prosecuted as such.

B. PENALTY FOR VIOLATION

Any person in violation of any of the provisions of this chapter shall be fined in an amount not to exceed ninety five dollars (\$95.00). Each day on which a violation occurs or continues after the time for correction of the violation given in the order has elapsed or after thirty (30) days from the date of service of the order, whichever is later, shall be considered a separate violation of these regulations.

SECTION 10 VARIANCE:

- A. Any person living or doing business in the Town may apply to the Planning and Zoning Commission for a variance from one (1) or more of the provisions of this chapter which are more stringent than the State Department of Environmental Protection Regulations for the control of noise provided that the applicant supplies all the following information to the Planning and Zoning Commission:
 1. The location and nature of the activity.
 2. The time period and hours of operation of said activity.
 3. The nature and intensity of the noise that will be generated.
 4. Any other information required by the Planning and Zoning Commission
- B. No variance from these Regulations shall be issued unless it has been demonstrated that:
 1. The proposed activity will not violate any provisions of the State Department of Environmental Protection regulations.
 2. The noise levels generated by the proposed activity will not constitute a danger to the public health.

3. Compliance with the regulations constitutes an unreasonable hardship on the applicant.

C. The application for variance shall be reviewed and either approved or rejected within Sixty-five (65) days of receipt by the Planning and Zoning Commission. The approval or rejection shall be in writing and shall state the reasons for the action taken on the variance. The Planning and Zoning Commission may establish conditions of approval of a variance including a schedule for compliance. The Planning and Zoning Commission shall cause to have published in a newspaper of local circulation a notice of action on the variance request indicating the nature of the variance, action taken, location, owner, and applicant making the variance application.

D. In the case of variance applications involving requests to vary the Standards in these Regulations that are equivalent to the State Noise Regulations, said application must be made to the State Commissioner of the Department of Environmental Protection. Any variances issued by said Commissioner shall not be required to be submitted to the Planning and Zoning Commission. Any variance issued by the Commissioner of the Department of Environmental Protection shall be considered a variance from compliance with the applicable provisions of these Regulations.

SECTION 11 SEVERABILITY:

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this ordinance which can be given effect without the invalid provisions of applications; and to this end, the provisions of this ordinance and the various applications thereof are declared to be severable.