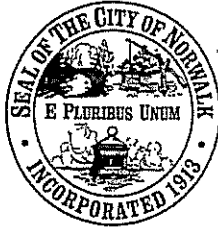


CITY OF NORWALK

LAW DEPARTMENT

CITY HALL
125 EAST AVENUE, P.O. BOX 5125
NORWALK, CONNECTICUT 06856-5125



TEL: (203) 854-7750
FAX: (203) 854-7901

COMMON COUNCIL ORDINANCE COMMITTEE

PUBLIC HEARING AND REGULAR MEETING

March 21, 2017
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. ROLL CALL
2. PUBLIC HEARING (possible action on): Noise Ordinance
3. PUBLIC HEARING DISCUSSION
4. PUBLIC COMMENT
5. ACCEPTANCE OF MINUTES: February 21, 2017
6. OLD BUSINESS (possible action on): Indemnification
Bike/Walk Advisory Committee
7. NEW BUSINESS: (possible action on):
8. ADJOURNMENT

Noise
(Norwalk City Code §§ 68-4
and 68-10)

For proposed revisions, see § 68-4(D) and § 68-10

[HISTORY: Adopted by the City of Norwalk Common Council 7-26-1983; amended in its entirety 9-19-2001. Subsequent amendments noted where applicable.]

Chapter 68. Noise

§ 68-1. Short title.

This chapter shall be known as the "City of Norwalk Noise Control Ordinance."

§ 68-2. Purpose.

It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Norwalk through the reduction, control and prevention of noise.

§ 68-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

AMBIENT NOISE or BACKGROUND NOISE

Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

COMMERCIAL ZONE

All commercial districts, business districts, as defined in the Zoning Regulations of the City of Norwalk, and all uses associated therewith, either permitted as a right or as a special use.

COMMON COUNCIL

The Common Council of the City of Norwalk.

CONSTRUCTION

Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

CONSTRUCTION EQUIPMENT

Any equipment or device operated by fuel pneumatically or electric power used in construction or demolition work.

CONSTRUCTION SITE

Site where construction or demolition takes place.

DAYTIME HOURS

The hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, the hours between 8:00 a.m. and 8:00 p.m. on Saturday and the hours 9:00 a.m. through 8:00 p.m. on Sundays and federal and state holidays.

DECIBEL

A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB. SPL (sound pressure level) is defined as:

$$\text{SPL} = 20 \log P/P_0 \text{ in dB}$$

Where

$$P_0 = 0.0002 \text{ microbar}$$

DEMOLITION

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

DIRECTOR OF HEALTH

The Health Director of the City of Norwalk.

DOMESTIC POWER EQUIPMENT

Not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a home owner.

EMERGENCY

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY VEHICLE

Any motor vehicle authorized by the City of Norwalk to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

EMERGENCY WORK

Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

HEALTH BOARD

As defined in Chapter 57 in the City Code.

IMPULSE NOISE

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

INDUSTRIAL ZONE

All industrial districts as defined by the Zoning Regulations of the City of Norwalk.

MOTOR VEHICLE

Per Section 14-1(26) of the Connecticut General Statutes, as amended.

MUFFLER

A device for abating sounds, such as those produced by escaping gases.

NIGHTTIME HOURS

The hours between 8:00 p.m. and 7:00 a.m., Sunday evening through Friday morning, Friday evening 8:00 p.m. through 8:00 a.m. Saturday morning and Saturday evening 8:00 p.m. through 9:00 a.m. Sunday morning. Saturday nighttime hours apply to state and federal holidays.

NOISE

Any sound, the intensity of which exceeds the standards set forth in § 68-5B or C of this chapter.

NOISE DISTURBANCE

Any sound which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person, or which causes injury or damage to property or business.

NOISE LEVEL

The sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The level so read is designed "dB(A)" or "dBA."

NOISE SENSITIVE ZONE

Any area designated by the Norwalk Board of Health as a "noise-sensitive zone" where noise problems are likely to occur or known to exist. As a minimum requirement, said zone must include within its boundaries a school, hospital, house of worship, day-care center, nursing home, public library, senior citizen center, residence or court.

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.

PREMISES

Any buildings, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements owned or controlled by a person. The emitter's premises includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

PROPERTY LINE

That 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 the public right-of-way.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

RECREATIONAL VEHICLE

Any internal combustion-engine powered vehicle which is being used for recreational purposes.

RESIDENTIAL ZONE

All city-owned property used for recreational or educational purposes and all residential districts and any commercial district when used for residential purposes, as defined in the Zoning Regulations of the City of Norwalk, and all uses permitted therewith either as a right or as a special use.

SOUND

A transmission of energy through solid, liquid or gaseous media in the form of vibrations which 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.

SOUND LEVEL METER

An instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4-1971 (Type S2A).

SOUND PRESSURE LEVEL

Twenty times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter (20×10^{-6} Newtons/meter²), and is expressed in decibels (dB).

§ 68-4. Noise level measurement procedures.

For the purpose of determining noise level 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)

When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions.

(4)

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 feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.

(5)

Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or ground of contiguous parcels under the same ownership as indicated by public land records.

D.

Multiple uses. Where multiple uses exist within a given noise zone, the least-more restrictive land use category for the emitter and receptor shall apply regarding the noise standards.

§ 68-5. Noise levels.

A.

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this chapter.

B.

Noise level standards.

(1)

No person in a residential zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential (day)	(night)
Residential	62 dBA's	55 dBA's	55 dBA's	45 dBA's

(2)

No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential (day)	(night)
Commercial	62 dBA's	62 dBA's	55 dBA's	45 dBA's

(3)

No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential (day)	Residential (night)
Industrial	70 dBA's	66 dBA's	61 dBA's	51 dBA's

C.

High background noise levels and impulse noise.

(1)

In those individual cases where the background noise levels caused by sources not subject to this chapter 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 levels by five dBA's, provided that no source subject to the provisions of this chapter shall emit noise in excess of 80 dBA's at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter.

(2)

No person shall cause or allow the emission of impulse noise in excess of 80 dB's peak sound pressure level during the nighttime to any residential noise zone.

(3)

No person shall cause or allow the emission of impulse noise in excess of 100 dB's peak sound pressure level at any time to any zone.

D.

Exclusions. These levels shall not apply to noise emitted by or related to:

(1)

Natural phenomena.

(2)

Any bell or chime from any building clock, school or church.

(3)

Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation.

(4)

Warning devices required by OSHA or other state or federal safety regulations.

(5)

Farming equipment or farming activity.

E.

Exemptions. The following shall be exempt from this chapter these regulations subject to special conditions as spelled out and to the general prohibition of § 68-6:

(1)

Noise generated by any construction equipment which is operated during daytime hours.

(2)

Noise created as a result of, or relating to, an emergency.

(3)

Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises that result therefrom.

(4)

Noise from 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.

(5)

Noise from demolition work conducted during daytime hours.

(6)

Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.

(7)

Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City, including, but not limited to, parades, sporting events, concerts and firework displays.

(8)

Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.

(9)

Noise created by the normal and ordinary activities of the Department of Public Works or any taxing district utility, including but not limited to the following: street sweeping, snow and ice control, maintenance of the sanitary sewer collection system, maintenance of storm drainage systems, solid waste collection and disposal, maintenance of traffic control devices and operation of off-street parking facilities.

(10)

Noise created by public school construction.

§ 68-6. Prohibited activities.

A.

General prohibition. It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary and unreasonable noise.

B.

The following activities are prohibited:

(1)

Vehicle horns. No person shall at any time sound any horn or audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.

(2)

Emissions from stationary or idling mobile sources. No mobile source engine shall be allowed to operate for more than three consecutive minutes when the mobile source is not in motion except as follows:

(a)

When a mobile source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;

(b)

When it is necessary to operate heating, cooling or auxiliary equipment installed on the mobile source when such equipment is necessary to accomplish the intended use of the mobile source;

(c)

To bring the mobile source to the manufacturer's recommended operating temperature;

(d)

When the outdoor temperature is below 20°F;

(e)

When the mobile source is being repaired.

(3)

Exhaust discharge. No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge is through a muffler as defined by § 68-3 of this chapter or through an apparatus providing equal noise reduction and that meet noise level requirements identified in § 68-5B.

(4)

Construction. No person shall at any time operate construction equipment on the construction or demolition site or carry on any construction or demolition during nighttime hours, except in an emergency in the interest of public safety and then only with a permit from the Director of Health or his designee and subject to all other applicable rules and regulations provided by state and local law, and said permit may not exceed a period of three days.

(5)

Blasting. No person shall at any time carry on blasting between the hours of 5:00 p.m. and 8:00 a.m. except in an emergency in the interest of public safety and then only with a permit from the Director of Health or his designee and subject to all other applicable rules and regulations provided by state and local law and the permit may not exceed a period of three days.

(6)

Leaf blowers. No person shall at any time operate a leaf blower during nighttime hours in a residential zone.

(7)

Nighttime. In-house construction. No person shall carry on nighttime in-house construction unless that construction activity takes place solely within the structure and emits no sound or noise outside of the structure.

§ 68-7. Motor vehicles.

A.

All motor vehicles operated within the limits of the City of Norwalk shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Sections 14-80a-1a through 14-80a-10a, inclusive, of the Regulations of Connecticut State Agencies.

B.

No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 68-5B or C.

C.

This section dealing with motor vehicle noise shall be enforced by the Chief of Police and/or his designated subordinates.

§ 68-8. Recreational vehicles; loudspeakers; sound reproduction systems.

A.

No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this chapter when the noise so generated exceeds the noise level standards set forth in § 68-5B or C.

B.

The Norwalk Board of Health may designate noise-sensitive zones where noise problems are particularly likely to occur and likely to cause unusual problems. Loudspeakers and public address systems may be prohibited in such noise-sensitive zones by the Norwalk Board of Health.

C.

Operating, playing or permitting the operation or playing of any radio, television, phonograph or similar device which reproduces or amplifies sounds in such a manner as to create a noise disturbance is prohibited.

§ 68-9. Inspections.

A.

For the purpose of determining compliance with the provisions of this chapter, the Chief of Police or his designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the Chief of Police and/or designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.

B.

It shall be unlawful for any person to refuse to allow or permit the Chief of Police or his designated representative free access to any premises when the Chief of Police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.

C.

It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

D.

No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this chapter.

§ 68-10. Violations and penalties.

A.

Any person who violates any provision of this chapter or any rule or regulation in force pursuant thereto shall be subject to a fine of no more than \$99 for the first offense, and \$250 for each subsequent offense within one year of the last offense. Each violation shall constitute a separate offense.

B.

Action pursuant to Subsection A of this section shall not be a bar to enforcement of this chapter, rules and regulations in force pursuant thereto and orders made pursuant to this chapter, by injunction or other appropriate remedy, and the Department of Health shall have the power to institute and maintain in the name of the City of Norwalk any and all such enforcement proceedings.

C.

Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property, and to maintain any action or other appropriate proceeding therefor.

§ 68-11. Variances; promulgation of regulations; contracts.

A.

Variances.

(1)

Any person living or doing business in Norwalk may apply to the Director of Health for a variance from one or more of the provisions of the chapter, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplies all of the following information to the Director of Health:

(a)

Location and nature of activity.

(b)

The time period and hours of operation of said activity.

(c)

The nature and intensity of the noise that will be generated.

(d)

Any other information required by the Director of Health.

(2)

No variance from these regulations shall be issued unless it has been demonstrated that:

(a)

The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.

(b)

The noise levels generated by the proposed activity will not constitute a danger to the public health.

(c)

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

(3)

Following receipt and review of an application for a variance, the Director of Health shall fix a date, time and location for a hearing on such application.

(4)

The Director of Health shall cause the applicant to publish at his/her own expense all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record and property owners within 200 feet.

(5)

Within 65 days of the receipt of the record of the hearings on a variance application, the Director of Health shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.

(6)

The Director of Health may, at his/her discretion, limit the duration of any variance granted under this chapter. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of this chapter. Any such application shall include a certification of compliance with any condition imposed under the proposed variance.

(7)

The Director of Health may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:

(a)

Requirements for the best practical noise control measures to be taken by the owner or operator of the source to minimize noise during the period of the variance.

(b)

Requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Director of Health deems necessary.

(8)

The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Director of Health upon application of any party if the Director of Health finds that protection of the public health so requires.

(9)

In any case where a person seeking a variance contends that compliance with any provision of these regulations is not practical or possible because of the cost involved either in installing noise control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Director of Health such financial records as the Director of Health may require.

(10)

A variance may include a compliance schedule and requirements for periodic reporting on increments of achievement of compliance.

(11)

Failure to rule on the application in the designated time shall constitute approval of the variance.

B.

Any person aggrieved by the decision of the Director of Health with respect to any variance may appeal to the Common Council within a period of 10 days of the reception of the Health Director's decision.

C.

The Director of Health is herewith authorized to recommend regulations from time to time not inconsistent with the State Public Health Code and/or the regulations of the State Department of Environmental Protection regarding noise which shall, upon approval by the Common Council and State of Connecticut Department of Environmental Protection, become effective therewith.

D.

Contracts. Any written agreement, purchase order or contract whereby the City of Norwalk is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials, or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without violating the provisions of the chapter.

§ 68-12. Severability.

If any clause, sentence, paragraph or part of this chapter, or the application thereof to any person, firm, corporation or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons, firms, corporation or circumstances, but shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of this body that this chapter would have been adopted had such invalid provisions not been included.

§ 68-13. Conflict with other regulations.

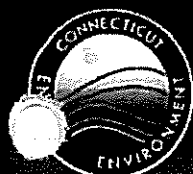
In the event that provisions or standards of this chapter or adopted under this chapter shall conflict with regulations or standards set by the State of Connecticut Department of Environmental Protection, the more strict standard shall apply.

§ 68-14. Word usage.

In construing this chapter, masculine or neuter pronouns shall be substituted for those of feminine form and vice versa, and the plural of the singular and the singular of the plural, shall be substituted in any case which the context may require.

§ 68-15. When effective.

This chapter shall be effective 10 days from its passage.



Department of ENERGY & ENVIRONMENTAL PROTECTION

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Municipal Noise Regulation Programs

The policy of the state is to promote an environment free from noise to the extent that it jeopardizes the health and welfare of the citizens of the State of Connecticut. The first point of contact for the resolution of local noise issues is your local government official. In some towns the local **Department of Health** can assist, while in others you will need to contact Town Hall to identify the appropriate official.

In accordance with Connecticut General Statutes Section 22a-73, DEEP reviews and approves municipal noise ordinances. For reference purposes, the following table sets out approved municipal noise ordinance text by town.

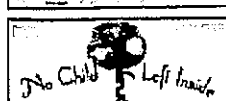
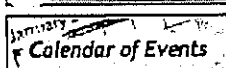
*Ansonia through
Harwington*

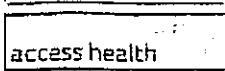
*Kent through
Rocky Hill*

*Salisbury through
Woodbridge*

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Town Name	Date of DEEP Approval
<i>Ansonia through Harwington</i>	
<u>Ansonia</u>	<u>06-13-01</u>
<u>Branford</u>	<u>10-12-89</u>
<u>Bridgeport</u>	
<u>Bristol</u>	<u>10-24-04</u>
<u>Colchester</u>	<u>09-12-00</u>
<u>Cromwell</u>	<u>08-10-94</u>
<u>Danbury</u>	<u>05-29-12</u>
<u>Darien</u>	<u>12-04-95</u>
<u>Derby</u>	<u>05-12-99</u>
<u>Durham</u>	<u>06-05-00</u>
<u>East Granby</u>	<u>11-16-87</u>
<u>East Hartford</u>	<u>11-19-01</u>
<u>East Lyme</u>	<u>10-25-12</u>
<u>East Windsor</u>	<u>09-30-93</u>
<u>Enfield</u>	<u>06-20-01</u>
<u>Fairfield</u>	<u>07-09-85</u>
<u>Farmington</u>	<u>06-21-09</u>
<u>Greenwich</u>	<u>01-27-84</u>





Groton Long Point	08-21-01
Hamden	01-25-01
Hartford	02-27-09
<i>Kent through Rocky Hill</i>	
Top	
Killingly	11-21-05
Manchester	-
Middletown (Amendment)	03-30-92 08-10-94
New Britain	04-03-96
New Canaan	10-11-06
New Haven	07-25-06
New London	-
Newington	03-24-82
Newtown	07-09-09
North Branford	07-19-90
North Haven	-
Norwalk	07-07-02
Old Lyme	01-11-85
Old Saybrook	-
Orange (Amendment)	11-05-02 06-13-07
Portland	10-02-01
Ridgefield	03-24-03
Rocky Hill	10-31-88
<i>Salisbury through Woodbridge</i>	
Top	
Seymour	07-25-83
Shelton	04-10-78
Somers	-
South Windsor	11-03-82
Sprague	04-26-11
Stamford	02-05-88
Stratford	11-20-85
Tolland	09-28-06
Trumbull	09-28-06
Union	07-02-87
Voluntown	04-13-83
Wallingford	09-27-02
Waterbury	10-22-87
Waterford	10-08-93
West Hartford	11-17-82
West Haven (Amendment)	12-20-84 12-21-03
Westbrook	-

<u>Wethersfield</u> (Amendment)	-
<u>Windham</u>	<u>04-16-10</u>
<u>Windsor</u>	<u>07-26-82</u>
<u>Woodbridge</u>	<u>11-05-02</u>

Note: As of 1/21/2016 the Torrington Area Health District has repealed their noise ordinance. The ordinance covered the following towns: Bethlehem, Cornwall, Goshen, Harwington, Kent, Litchfield, Morris, Norfolk, Plymouth, Salisbury, Thomaston, Torrington, Warren, Watertown, and Winchester.

Related Links

- [Noise Control Regulation \(RCSA Section 22a-69-1 to 22a-69-7.4\)](#)
- [Air Regulations and SIP Revisions](#)

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STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



June 7, 2002

Ms. Katherine B. Lasberg
Assistant Corporation Counsel
City of Norwalk
P.O. Box 798
Norwalk, CT 06856-0798

SUBJECT: Local Noise Control Ordinance
Norwalk, Connecticut

Dear Ms. Lasberg:

Thank you for your letter of June 7, 2002 regarding the Noise Control Ordinance for the City of Norwalk.

Based on review of the ordinance (copy attached) my staff has determined that the ordinance conforms to state noise control standards. The Commissioner of Environmental Protection has delegated the authority (with respect to Connecticut General Statutes Chapters 446a and 446c) to approve local noise ordinances to the Chief of the Bureau of Air Management. Therefore, pursuant to Connecticut General Statutes Section 22a-73(c), I approve Norwalk's Noise Control Ordinance as adopted by the Norwalk Common Council on September 19, 2001.

If you have any questions regarding this matter, please contact Mr. Joseph Foutz, P.E. at 860-424-3027.

Sincerely,

Carmine DiBattista, Chief
Bureau of Air Management

CD: JEF:jef

Attachment

From: McCann, Brian
To: Sapienza, Matt; Candela, Brian; Coppola, Mario
Cc: Melendez, FloisaM
Subject: FW: Noise Ordinance
Date: Tuesday, December 20, 2016 10:19:31 AM
Attachments: image001.png
image002.png

Matt-

I think you are the new Ordinance person so I am forwarding on to you.

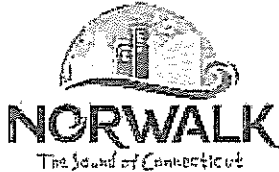
BLM

Brian L. McCann, Esq.
Assistant Corporation Counsel
City of Norwalk
125 East Avenue
Norwalk, CT 06851
Phone: (203) 854-7750
Fax: (203) 854-7901

From: Kulhawik, Thomas
Sent: Tuesday, December 20, 2016 10:15 AM
To: 'Vernon Howard'
Cc: Kleppin, Steven; Rilling, Harry; bruce.morris@cga.ct.gov; Spahr, Jeff; McCann, Brian
Subject: RE: Noise Ordinance

Ms Melendez is very responsive. I am sure she will be in contact. I know they are just beginning to look at the noise issue.

Sincerely,
Thomas Kulhawik
Chief of Police



Norwalk Police Department
1 Monroe Street
Norwalk, CT 06854
(203) 854-3001 (Phone)
(203) 854-9215 (Fax)
www.norwalkpd.com
tkulhawik@norwalkct.org
@NPDChief

A-1



"To avoid criticism do nothing, say nothing, be nothing." Elbert Hubbard

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From: Vernon Howard [<mailto:vern1271@gmail.com>]

Sent: Tuesday, December 20, 2016 9:50 AM

To: Kulhawik, Thomas

Cc: Kleppin, Steven; Rilling, Harry; bruce.morris@cgga.ct.gov; Spahr, Jeff; McCann, Brian

Subject: Re: Noise Ordinance

Thanks you for following up Chief Kulhawik,

Yes, Officer O'Connor called me yesterday evening to inform me. There seems to be some discrepancy on the numbers though. He says the ordinance book located at the police station shows 66dBA, but on eCode, it shows 62dBA. <http://ecode360.com/27051101>

It may sound like only a difference of four, but If you understood how a decibel is measured, you'd understand why those 4 decibels can make a a significant difference in the loudness of the music.

Decibels is not a linear measurement like inches, feett, centimeters... where each unit is equal. The dB is a logarithmic way of dscribing a ratio. So when someone says it's only 55 dBA, what they really saying to me is that they don't understand how it is measured. The difference between 44 and 55 dBA is perceived at about 50% louder. So the difference from 45 to 65 dBA would be perceived at about twice as loud.

I have reached out the Councilwoman Melendez in regards to this matter, but she has not responded to me as of yet. I think in order for the committee to to be fair to everyone (businesses as well), they should at least understand how the dBA is measured and perceived so that we can come to a mutually beneficial resolution for all.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Dec 20, 2016, at 8:28 AM, Kulhawik, Thomas <TKulhawik@norwalkct.org> wrote:

The Law Department responded back and did not agree with my assessment and instead agreed with Planning and Zoning in that in a mixed use area, the highest levels should be used. Therefore, on Washington Street, the Commercial levels would be the appropriate levels. This may be something to review as we revise the ordinance

moving forward so these ambiguities are corrected.

Sincerely,
Thomas Kulhawik
Chief of Police
<image001.png>

Norwalk Police Department
1 Monroe Street
Norwalk, CT 06854
(203) 854-3001 (Phone)
(203) 854-9215 (Fax)
www.norwalkpd.com
tkulhawik@norwalkct.org

<image002.png>@NPDChief

<image003.gif> *"To avoid criticism do nothing, say nothing, be nothing." Elbert Hubbard*

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From: Vernon Howard [<mailto:vern1271@gmail.com>]
Sent: Monday, December 19, 2016 1:26 PM
To: Kulhawik, Thomas
Cc: Kleppin, Steven; Rilling, Harry; bruce.morris@cga.ct.gov
Subject: Re: Noise Ordinance

Will there be public hearings by the ordinance committee pertaining to this? If so, how does one go about attending/being involved in this process?

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Dec 19, 2016, at 1:22 PM, Kulhawik, Thomas
<TKulhawik@norwalkct.org> wrote:

Short term we will see what the Law Dept thinks. Longer term we are working on revising the noise ordinance to make it easier to enforce and less ambiguous. The Ordinance Committee will begin work on this.

Chief Thomas Kulhawik
Norwalk Police Department
1 Monroe Street
Norwalk, CT 06854
(203) 854-3001 - Phone

A-3

(203) 854-9215 - Fax
@NPDChief - Twitter

Sent from my IPAD

From: Vernon Howard <vern1271@gmail.com>
Sent: Monday, December 19, 2016 1:17 PM
Subject: Re: Noise Ordinance
To: Kleppin, Steven <skleppin@norwalkct.org>
Cc: <bruce.morris@cga.ct.gov>, Kulhawik, Thomas
<tkulhawik@norwalkct.org>, Rilling, Harry
<hrilling@norwalkct.org>

OK, so every apartment on Washington St. located above a commercial business can be subjected to 62dBA's of noise if the business wants to at any time? How does someone live like that? Do you know how loud 62 dBA is? I highly doubt that the original authors meant that to be interpreted that way. How do you rent a unit that can subjected to 62 dBA's of sound at any time? Even someone renting the unit as office space would have serious issue with this level of noise, not to mention that the 112 Washington St unit routinely exceeds that level with the sub-sonic bass they emit from their speakers.

62 dBA would be the equivalent of a group of people having a full on conversation in my bedroom and then some. Can you sleep with that going on?

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Dec 19, 2016, at 12:55 PM, Kleppin, Steven
<skleppin@norwalkct.org> wrote:

Mr. Howard,

Both addresses listed are located within the Washington Street Design District which is a business zone that allows both commercial and residential uses. In my opinion, your interpretation is the most conservative opinion and makes common sense. However the way the ordinance is written, I interpret it to read that the zones dictate the noise standard and not the use within the zone. I think they would be held to the 62 dBA commercial standard. Definitely a good idea

A-4

to bounce this off the Law Department.

Steve

From: Kulhawik, Thomas
Sent: Monday, December 19, 2016 11:46 AM
To: 'Vernon Howard'; Kleppin, Steven
Cc: Rilling, Harry; Bruce.Morris@cga.ct.gov
Subject: RE: Noise Ordinance

Lt O'Connor requested clarification from the Law Department as well. We had been using the Commercial zone, but given the fact that Washington Street is named as its own district, the Lieutenant was concerned as to whether this interpretation was correct.

Sincerely,
Thomas Kulhawik
Chief of Police
<image001.png>

Norwalk Police Department
1 Monroe Street
Norwalk, CT 06854
(203) 854-3001 (Phone)
(203) 854-9215 (Fax)
www.norwalkpd.com
tkulhawik@norwalkct.org

<image002.png>@NPDChief

<image003.gif>"To avoid criticism do nothing, say nothing, be nothing." Elbert Hubbard

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From: Vernon Howard [<mailto:vern1271@gmail.com>]
Sent: Monday, December 19, 2016 11:42 AM
To: Kleppin, Steven
Cc: Rilling, Harry; Kulhawik, Thomas; Bruce.Morris@cga.ct.gov
Subject: Noise Ordinance
Importance: High

Mr. Kleppin,

You don't know me, but I had to call the Norwalk police this past Saturday night due to the level of noise coming from 112 Washington St (Room 112). I was getting dBA readings in the 70's on my own noise meter before the

police arrived. The officer that responded said that they needed someone from Zoning to tell them (The Norwalk Police Department) what ordinance to hold them to concerning noise levels because Washington Street has it's own zoning district. I myself went and reviewed the zoning ordinance and it does not break it down by district from what I can see, but by commercial, residential and industrial zoned areas. The officer said he was holding them to 52dBA, but that number does not appear anywhere within the ordinance from what I can tell.

So my question to you and everyone cc'd on this email, what are the noise levels that the Norwalk Police officers are to be going by when enforcing noise violations on Washington St? My interpretation of the ordinance is that Room 112 located at 112 Washington St is zoned as a commercial space and my unit (110 Washington St Unit 203) is zoned residential.

B.(2) under section 68-5 seems to specify that they as a commercial unit are not to exceed 55 dBA's during the day and 45 dBA's after 8PM. Is this incorrect and if so why?

I have recordings uploaded to YouTube that prove the unit frequently exceeds the ordinance
limit: <https://www.youtube.com/channel/UC6ac3NWlrLSXB2d62QhRN-Q>

If you could kindly clarify the numbers the Norwalk PD should be going by it would be greatly appreciated.

<image004.png>

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

Bcc: Attorney Samuel Leaf

A-6

From: McCann, Brian
To: Sapienza, Matt
Subject: Fwd: City of Norwalk : NYCDEP "Residential Noise Control Guidance Sheet" Clubs and Bars.
Date: Wednesday, January 11, 2017 1:32:36 PM

Sent via the Samsung Galaxy S@ 6, an AT&T 4G LTE smartphone

----- Original message -----

From: Vernon Howard <vern1271@gmail.com>
Date: 1/11/17 1:04 PM (GMT-05:00)
To: "Shamoon, Charles" <CharlesSh@dep.nyc.gov>, "Melendez, EloisaM" <eloisa.melendez@hotmail.com>
Cc: "Rilling, Harry" <hrilling@norwalkct.org>, "Kulhawik, Thomas" <TKulhawik@norwalkct.org>, Tom Rich <trich@fdrich.com>, Bruce.Morris@cga.ct.gov, "Spahr, Jeff" <JSPAHR@norwalkct.org>, "McCann, Brian" <BMcCann@norwalkct.org>
Subject: Re: City of Norwalk : NYCDEP "Residential Noise Control Guidance Sheet" Clubs and Bars.

Mr. Shamoon,

Thank you for taking time out of your schedule to speak with me Mr. Shamoon. The information you're going to be sending sounds like it will be very helpful in Norwalk's re-writing of their noise ordinance.

Eloisa,

We met with a realtor Monday and she's on the same page as us that it would be morally wrong not to disclose the ongoing noise issue to a perspective buyer and potentially lead to a costly legal battle. That narrows down our target buyer to a very small pool of people who work nights, are deaf, etc. We need to get this rectified so that we're able to sell the place and not worry about any legal ramifications even though CT does not require any disclosure for this issue. As you probably know people can sue anyone for just about anything these days. It does not mean they'll win, but it still costs money to defend in court and we would rather not have to deal with that possibility.

Mr. Shamoon has agreed to speak with the council by phone if needed if they have questions concerning the NYC noise regulations. He has one caveat to speaking with us though. **He is not representing either the City of Norwalk or myself as an attorney.** He's doing this in an informational manner only, not legally binding or taking responsibility in any way. He does not practice law in CT.

We had discussed meeting this month at some point before your council meeting. When would we be able to meet and discuss?

Thanks again Mr. Shamoon.

Best regards
Vernon Howard

B-1

(203) 733-9003
vern1271@gmail.com

On Jan 11, 2017, at 12:03 PM, Shamoon, Charles <CharlesSh@dep.nyc.gov> wrote:

Mr. Howard,
I just called you to see if I can assist you with any of the NYC Noise regulations.

Very truly yours,

Charles Shamoon,
Assistant Counsel, NYC Dept. of Environmental Protection
59-17 Junction Blvd., Flushing, NY 11373-5108, 718-595-6546

From: Shamoon, Charles
Sent: Monday, January 09, 2017 12:19 PM
To: 'Vernon Howard' <vern1271@gmail.com>
Cc: 'Thomas Kulhawik' <tkulhawik@norwalkct.org>; 'Eloisa Melendez' <eloisa.melendez@hotmail.com>
Subject: NYCDEP has added the "Residential Noise Control Guidance Sheet" Clubs and Bars.

Hi,
I had another thought. Big cities have issues with outside noise at residences. NYCDEP has added the "Residential Noise Control Guidance Sheet" to NYCDEP's site.
Some complainants contact me who work from home in NYC and complain about the noise from transient sources. Maybe this can help with building tenants or even offices and those concerned with outside music.

Noise Codes Data Sheets have been updated:
<http://www.nyc.gov/html/dep/html/noise/index.shtml>

Residential Noise Control Guidance Sheet

The following Guidance Sheet is intended to provide guidance for residents of New York City seeking relief from city noise. Residential noise control options, methods, products and services are described to aid homeowners and tenants living in multi-family dwellings (apartments, condos, etc.) and in single-family homes. Guidance is provided for control of airborne, structure-borne, and heating, ventilation and air conditioning (HVAC) and outside noise.

<image001.png> **[Residential Noise Control Guidance Sheet \(PDF\)](#)**

Very truly yours,

Charles Shamoon,

From: Shamoon, Charles

Sent: Monday, January 09, 2017 10:59 AM

To: 'Vernon Howard' <vern1271@gmail.com>

Cc: 'Thomas Kulhawik' <tkulhawik@norwalkct.org>; 'Eloisa Melendez' <eloisa.melendez@hotmail.com>

Subject: RE: NYC DEP Response regarding the Noise Code Clubs and Bars.

Hi,

This gets very complicated. Music has many frequencies. NYC doesn't have a dual music standard.

The section below handles machinery noise in mixed use areas.

If you wanted to have a dual music standard, you would have to hire a music acoustician.

to test all different music frequencies to see what could be acceptable to the listener

In a residence.

I really suggest you watch this video to see how easy it is to control music so you don't need a dual music standard.

This popular DEP/MAYORAL 2-minute Video for Nightlife measurement could be helpful to show how measurement is performed- [Inform NYC Business: Playing Music](#).

DEP also has a nightlife vendor guidance document with suggestions of products to mitigate noise: [Noise Control Guidance for Nightlife Industry](#). These products are suggested to businesses and the specific items included were vetted by DEP's outside noise control consulting engineer

Very truly yours,

Charles Shamoon,

From: Vernon Howard [<mailto:vern1271@gmail.com>]

Sent: Monday, January 09, 2017 10:26 AM

To: Shamoon, Charles <CharlesSh@dep.nyc.gov>

Cc: Thomas Kulhawik <tkulhawik@norwalkct.org>; Eloisa Melendez <eloisa.melendez@hotmail.com>

Subject: Re: NYC DEP Response regarding the Noise Code Clubs and Bars.

OK, you just went way over my head. Octave Band Frequency? I'm not an expert, but I've had to learn more than I've ever wanted to about dBA's in the past three plus years.

Anyway, do you know what tools the Police use to measure and enforce these regulations? Currently the City of Norwalk uses a simple dBA meter, but it sounds like they would need something to measure the frequency (Hz) as well. Am I correct in this assessment?

So, bass/low pressure would probably fall in the 31-5 to 250 Hz range and it's maximum would be dependent of what Hz it is? How does a responding officer know what Hz he is measuring before he takes a dBA meter reading or do your meters isolate the Hz first somehow?

Sorry for all the questions. I just want to be sure I'm clear on this.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Jan 9, 2017, at 10:00 AM, Shamoon, Charles
<CharlesSh@dep.nyc.gov> wrote:

Hi

NYC does have a section but it does not apply to commercial music. §24-232 Allowable decibel levels-octave band measurement.

§24-232 Allowable decibel levels-octave band measurement. (a) No person shall cause or permit a sound source operating in connection with any commercial or business enterprise to exceed the decibel levels in the designated octave bands shown below as measured within a receiving property as specified therein.

<u>Octave Band</u> <u>Frequency (Hz)</u>	<u>Maximum Sound Pressure Levels (dB) as</u> <u>measured within a receiving property as</u> <u>specified below</u>	
	<u>Residential receiving</u> <u>property for mixed</u> <u>use buildings and</u> <u>residential buildings</u> <u>(as measured within</u> <u>any room of the</u>	<u>Commercial receiving</u> <u>property (as measured</u> <u>within any room</u> <u>containing offices</u> <u>within the building.</u>

	residential portion of the building with windows open, if possible).	with windows open, if possible).
31.5	70	74
63	61	64
125	53	56
250	46	50
500	40	45
1000	36	41
2000	34	39
4000	33	38
8000	32	37

(b) All sources that are within the A-scale limits prescribed by any other section of this code must also comply with the octave band decibel levels as specified herein. Compliance with this section does not constitute a defense to violation of decibel limits set by any other section of this code.

(c) Measurements performed on residential property shall not be taken in non-living areas such as closets and crawlspaces.

(d) This section shall not apply to impulsive sound, music or construction devices or activities.

(e) This section shall not apply to any utility structure in existence prior to January 1, 2004. For the purposes of this subdivision the term "utility structure" means any electric substation owned or operated by an electric, gas, or steam utility subject to the jurisdiction of the New York state public service commission.

(f) This section shall not apply to any refuse collection facility owned, operated or regulated by the department of sanitation.

From: Vernon Howard [<mailto:vern1271@gmail.com>]
Sent: Monday, January 09, 2017 9:54 AM
To: Shamoan, Charles <CharlesSh@dep.nyc.gov>
Cc: Thomas Kulhawik <tkulhawik@norwalkct.org>; Eloisa Melendez <eloisa.melendez@hotmail.com>
Subject: Re: NYC DEP Response regarding the Noise Code Clubs and Bars.

Thanks for getting back to me Charles. I appreciate the information. I've cc'd the chief of police Thomas Kulhawik and councilwoman Melendez on this reply.

I'm wondering how New York City handles situations like dual zone areas? Our apartment is dual zoned, meaning it can be used as a residential or commercial property. We currently utilize it as our primary residence (where we sleep). Would there be a distinction in how the city would treat a location that may be dual zoned but used as a residence that is adjacent to a commercial property that plays loud music? The city of Norwalk attorney says that the higher number prevails (62dBA) in situations such as ours. Would NYC make any distinction between residential or commercial in a dual zoned area or just the fact that it's being used as a residential property be enough for it to fall under the 42dBA limit?

Thank you for your time and Happy New Year.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Jan 9, 2017, at 9:39 AM, Shamoan, Charles <CharlesSh@dep.nyc.gov> wrote:

Hi Mr. Howard,
Sorry about your noise problem. 42 dBA was selected because it is the Federal Housing and Urban Development [HUD] decibel standard for living and sleeping areas of a residence. It is the standard of uninterrupted sleep in a residential setting. I believe the Department of the Army used the same number.

Decibels measured in dBA is the weighting of frequencies attuned to the human ear. Many establishments use music and if it is a business NYC considers it commercial music.

When we lobbied for the law I came up with the attached video to show business owners how to mitigate

The noise using engineering control like noise barriers and noise limiters. Please look at the attached video and

Suggested engineering controls list. Please forward this email to Eloisa Melendez; Thomas Kulhawik and send me their emails.

The NYC Noise code has become a model code within the US and countries around the world. Currently we are assisting a Clinic of Harvard Law School on a version of a local noise code.

This popular DEP/MAYORAL 2-minute Video for Nightlife measurement could be helpful to show how measurement is performed- Inform NYC Business: Playing Music.

DEP also has a nightlife vendor guidance document with suggestions of products to mitigate noise: Noise Control Guidance for Nightlife Industry. These products are suggested to businesses and the specific items included were vetted by DEP's outside noise control consulting engineer

Very truly yours,

Charles Shamoon,
Assistant Counsel, NYC Dept. of
Environmental Protection
59-17 Junction Blvd., Flushing, NY 11373-
5108, 718-595-6546

B-7

From: Vernon Howard [mailto:vern1271@gmail.com]
Sent: Wednesday, December 21, 2016 8:48 PM
To: Lamberta, Brian
Cc: Eloisa Melendez; Thomas Kulhawik
Subject: Re: NYC Department of Environmental Protection
Response regarding the Noise Code

Brian,

Thanks for getting back to me so quickly.

To answer your question... No, I don't work for the City of Norwalk. I'm a concerned citizen that has a personal and financial reason (property values and future rental income) for making sure the new noise ordinances in Norwalk, CT are fair to all parties and written so that the police can effectively enforce them when necessary.

To give you some background, my fiancé and I purchased a apartment in 2013 that is above two commercial spaces on Washington St in South Norwalk, CT. It's a densely populated area of Norwalk with commercial units (restaurants, bars, boutique shops, etc) on the ground floor and apartments and offices above that are zoned as dual use. Currently, the city ordinance is being interpreted in a way that allows any commercial unit on Washington St to emit noise up to 62dBA beyond their boundaries (<http://ecode360.com/27051101>). If you understand noise and decibels, then you know 62dBA is quite loud for someone's bedroom at 1 or 2AM in the morning. We were interpreting the code that it was 55 during the day and 45 dBA after 8PM, but the city attorney's are saying 62dBA is the limit since they are dual zoned and the higher number prevails. Half our apartment, which includes our bedroom is over one commercial unit that is currently being operated as a bar/club. As you can imagine, we can't go to bed some nights until they close. The bass, music and people yelling & screaming is just too loud and as long as they aren't above 62dBA there's nothing the police can currently do for us. I've lived in apartments in other cities (Boston, MA, Stamford, CT & London UK) and have never dealt with anything like this level of noise before in my life.

I was informed last week that the city is going to be re-writing some of their ordinances and the noise ordinance is one of them. Councilwoman Eloisa Melendez (cc'd) is charged with this task and I just want to make sure our council committee members have all the necessary

information they need to write a noise ordinance that is fair to all parties and easy for the police to interpret and enforce.

Our Chief of Police Thomas Kulhawik (cc'd) has also expressed interest in how NYC has dealt with the vibrant bar/restaurant areas with residential apartments above in terms of noise and regulations.

For example, one part of the document I referenced in my original email reads...

Commercial establishments that play music must limit the level of unreasonable or disturbing noise that escapes into the streets or is heard in nearby residences by requiring that sounds levels may not exceed:

- 42 decibels as measured from inside nearby residences, AND*

- 7 decibels over the ambient sound level, as measured on a street or public right-of-way 15 feet or more from the source, between 10:00 pm and 7:00 am*

k
Sometimes residents are disturbed by pervasive bass sounds that resonate and can be felt physically by a person.

- Bass sounds measurements are weighted in the "C" scale*

and may not exceed 6 dB(C) above the ambient sound if the ambient sound is greater than 62 dB(C).

I'm wondering how the NYC DEP came to the conclusion that 42 decibels should be the legal limit for music?

What factors or information/data did you reference that helped write these regulations in such a way?

I know you're thinking that I'm just looking out for myself and that is somewhat true to a degree, but I really want everyone in the area I call home (businesses & residents) to feel like they're being treated fairly and equally under the law. 62dBA just seems awfully loud to me and I'm hoping we can come to a more reasonable number in the new noise ordinance.

I am willing to pay reasonable travel expenses and hotel

if needed to have whoever your "resident expert" is on
noise regulations to come up and speak with our
community leaders on this subject.

Thank you for your time.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

Sapienza, Matt

From: Tom Rich <TRich@fdrich.com>
Sent: Wednesday, February 01, 2017 6:33 PM
To: Tom Rich; Rilling, Harry; Stocker, Elizabeth L.; Kulhawik, Thomas; Nick Rodriguez; Wrinn, Michael; Sapienza, Matt; johnzappalaphotographer@hotmail.com; Melendez, EloisaM; vern1271@gmail.com; aking@norwalkct.org; Greg Romano; Merilese Fernschild
Cc: Colleen Fraccola
Subject: Thank you for the meeting today....

Thank you all for taking time out of your busy schedules to discuss the noise issue. I think the meeting was very productive. I think we discussed tackling the problem a number of ways

1. Changing the ordinance so that it says "most" instead of "least. Maybe other language changes to beep it up. We also discussed the fines. I think \$1,500, \$3,000 and \$5,000 are appropriate given that the fines are meant to dissuade the breaking of the law. I think we all agreed that \$99.00 was not enough of an incentive to abide by the law.
2. We talked about zoning enforcement regarding open windows and making sure that new nightclubs submit a sound engineers plan/report before being granted a building permit/zoning certificate/CO and that the plan should include all of the things that will ensure that a neighbors sound will not be above 42 DB's. Things like sound limiters, sound proofing, properly designed ducts and properly positioned speakers etc. were noted.
3. We talked about enforcement based upon not only using a sound meter but by having the responding officer determine that an unreasonable disturbance has been created based upon the language in the noise ordinance.

Where do we go from here?? I will advise Mecha Noodle that they need to keep it down and also tell Chi they need to remove their outdoor speakers which are illegal.

Thx. Tom

Sapienza, Matt

From: King, Laoise
Sent: Friday, February 03, 2017 3:27 PM
To: Vernon Howard
Cc: Rilling, Harry; Wrinn, Michael; Kulhawik, Thomas; Kleppin, Steven; Tom Rich; Sapienza, Matt; Melendez, EloisaM
Subject: Re: New York Post: Neighbor makes my life hell: lawsuit

No offense taken Vern. We understand how frustrating this has been.

Laoise

Sent from my iPhone

On Feb 3, 2017, at 1:55 PM, Vernon Howard <vern1271@gmail.com> wrote:

It's been pointed out that I may be coming across a bit too abrasive. I apologize for that last part of my previous email. It's a character flaw that I have to work harder at improving. We're just really frustrated and tired dealing with this problem all the time and for so long. If we had known this is what our life would have become by moving here three years ago, we would have made an entirely different decision on this property.

I know you all have difficult and demanding jobs and I'm just one voice in a very large crowd bidding for your attention, but we and the other residents of Washington Street really need some much needed relief to this problem. I know personally, we're at our wits end. We never know night to night whether we'll be able to sleep in our own bedroom or even be able to get a decent night's sleep. Our decisions are solely based on what Room 112 decides to do that night in regards to the noise level.

Again, my apologies. Don't hold this against Tom Rich or the other residents of Washington Street that need your much needed help in getting this resolved.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Feb 3, 2017, at 12:25 PM, Vernon Howard <vern1271@gmail.com> wrote:

I would also like to point out that I know for a fact our neighbors (unit 204) are paying a much lesser rent than they would usually pay to the owner of that unit because of this ongoing problem. Their whole downstairs area is over Room 112. The only benefit they have is that their bedroom is on the third floor, so they have a buffer of two floors between them and Room 112 when they go to sleep.

We unfortunately do not enjoy that benefit. Our bedroom is directly above their bar. Our unit (#203) and John Zappalla (#201) are the only units in the building

with bedrooms directly above them. If you speak with John, he'll tell you he just leaves his home when it's too loud for him to handle. The man hangs out in Walmart late at night to escape the noise! They've literally been driving people out of their own homes with their loud music and noise. We're sort of lucky that the other half of our unit is over the salon next door, so we just end up sleeping on our couches if we can when it's too loud for us in our own bedroom. Some nights it's even been too loud over there to sleep.

We really do hope this can be remedied at some point. The meetings with Eloisa, Matt and the Mayor seemed to have shed more light on this thanks to Tom Rich, but I feel there is another issue here (the proverbial elephant in the room) that I'd like to point out.

Why did it take having Tom Rich get involved to get any movement on this? We really appreciate everything Tom has done and is doing, but I think it speaks volumes that an average, hardworking, tax paying, citizen of this city has been saying the exact same thing for the past three years and has gotten absolutely nowhere. Only when someone with a much greater financial investment in Norwalk got involved did we start to see any movement out of City Hall. Seriously? We invested our hard earned money that we saved for many years into a home in Norwalk that has caused us nothing but stress and financial pain and none of you would help us get it resolved. The only conclusion we could make, is that we just don't matter in the grand scheme of things. We're irrelevant. Put yourselves in our shoes for one moment and think about how that makes you feel, because this is how the City of Norwalk has made us feel for the past three years... shut up and pay your taxes.

My thanks to Tom Rich. We appreciate all that you have done so far. I think we might be seeing some light at the end of this long tunnel now.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Feb 3, 2017, at 10:16 AM, Tom Rich <TRich@fdrich.com> wrote:

Dear Mayor, these attached letters are disturbing (Vern gave me permission to forward) and they show the lack of respect and flouting of the law by the owner of the space which houses Room 112. This goes back to the beer garden, but the pattern of disregard and disrespect continues. The notion that we should have all know better is silly. They could then say to me, well why did you build an apartment house here you should have know better?! That's nutty thinking. They are breaking the law plain and simple. I hope the city can apply maximum pressure to make them conform and be good neighbors. We need a full court press from all corners. I feel bad for us across the street and other neighbors who are beaten down but I feel particularly bad for Vern and his

wife. It will send out a strong message that the neighborhood will not tolerate this anymore. As I mentioned at the meeting, as we are designing the hotel, we are not only trying to create a sound proof envelope from the outside but also between rooms. That's what's missing in this equation, the insistence that noisy places are forced to comply with a design that is designed with real tolerances in mind. No one wants to stamp out night clubs or make them move elsewhere. Anyway, thanks. Tom

Sent from my iPad

Begin forwarded message:

From: Vernon Howard <vern1271@gmail.com>

Date: February 3, 2017 at 9:57:23 AM EST

To: Tom Rich <TRich@fdrich.com>

Subject: Re: New York Post: Neighbor makes my life hell: lawsuit

We considered suing the unit owner when The Beer Garden was their tenant. We decided to stand down when we learned they were getting evicted for failure to pay their rent. Unfortunately, civil litigation is expensive. The average cost in the state of CT is about \$50,000 from what I've read and there's no guarantee you'll be awarded your attorney fees from the court. It's at the judges discretion.

\$50,000 is a lot of money for us. I'm self employed and my Fiancé is a manager at a restaurant. We're not rolling in money, but we get by. When we bought the place we used a huge chunk of our savings (\$50,000) as the down payment and we haven't been able to replenish that in past 3 years. That's why we feel trapped here. We can't sell and we don't have enough money saved for another down payment on another house yet and when we do there's no guarantee we'll be able to keep this place rented out consistently at a decent price to pay the mortgage or even at all because of the noise.

The below article reads differently for me. I might be wrong, but I think the guy is suing his Co-Op to evict his neighbor and the \$750,000. We considered suing the association for their failure to enforce their own Bylaws which basically states that one unit can't do anything offensive or loud that offends their neighbor..., but we choose to see where we could get with a letter to the unit owner.

See the attached PDF's of communication between our attorney and theirs. If these letters are any indication of what a longterm civil trial would consist of, it sounds really expensive.

I wish we had the money to throw away and hope for a win, but we don't. It's too much of a gamble for us at this time.

Best regards
Vernon Howard
(203) 733-9003
vern1271@gmail.com

On Feb 3, 2017, at 7:02 AM, Tom Rich <TRich@fdrich.com> wrote:

Why don't we sue them (room 112) to turn up he heat?

I thought you might be interested in this story from the New York Post.

A West Village man says his downstairs neighbor is making his daily life a living hell — screaming obscenities and banging on the ceiling with a broomstick “at all hours of the day and night.”

Kyle Cameron, who lives in Apt. 6C at 165 Christopher St., says in a Manhattan lawsuit that the building's board has ignored his complaints against Keith Dunn of 5C.

“For nearly two years Mr. Cameron has been unable to feel safe within, and/or quietly use and enjoy his own home,” the suit claims.

In one instance, Dunn “screamed at the top of his lungs, ‘You don’t think I know your story? I know your story you f--king c--ksucker,’” the suit says.

Worse, Dunn has made noise complaints against Cameron to the police while the plaintiff is out of state and his apartment is empty, the suit says.

But Dunn says the racket is coming from Cameron's unit, where he hears doors being slammed in the middle of the night. Dunn's attorney, Brian M. DeLaurentis, said his client never used a broomstick or yelled profanities.

Cameron wants the co-op to evict Dunn and pay him \$750,000 in damages.

Board reps did not immediately respond to requests for comment.

For more from the New York Post and to download our apps, visit NYPPost.com.

Sent from my iPad

<8_14_15 Letter to 112 Associates.pdf>
<doc02210320150824151619.pdf>
<8_25_15_letter_to_Goldberg.pdf>

Draft Meeting Minutes from
02/21/2017 Ordinance
Committee meeting

**CITY OF NORWALK
ORDINANCE COMMITTEE
FEBRUARY 21, 2017**

ATTENDANCE: Eloisa Melendez, Chair; Doug Hempstead; Michael Corsello; Bruce Kimmel; Thomas Livingston, Shannon O'Toole Giandurco; Travis Simms

STAFF: Matt Sapienza, Corporation Counsel

Others: Thomas Kulhawik, Police Chief;; Richard Brescia, Chairman of the Parking Authority, Kathryn Hebert, Administrative Services Manager, DPW; Tom Callahan, Director of Health; Diane Laurcella; Howard Vernon; Tom Rich; Nick Rodrigues; Nancy Rosett

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:05PM and called the roll. A quorum was present.

2. PUBLIC HEARING

Parking Authority

Mr. Brescia said that the ordinance was established 15 years ago, and requires the Parking Authority to submit a budget far in advance of any other organization in the city, and is an ordinance that has been ignored for 15 years. He said that the Parking Authority has followed a different protocol, and they provided information for the budgeting process the way the rest of the city was providing it. He said the thought that an organization can put together a budget for a new fiscal year, analyze that budget and begin a new budget seems to him to be absurd, and does not know why it was in the ordinance. He said he thinks that what we are all trying to accomplish is to function better, and he thinks the basis of this came from when the Parking Authority introduced new rates particularly in SONO, and he spoke to that issue at a hearing. He said since then a way of communicating has been established so there would be no surprises to the Common Council, and thinks they have done a pretty good job at that since this dialogue has started.

Senior Tax Relief

No one from the public commented.

3. PUBLIC HEARING DISCUSSION

Parking Authority

There was discussion regarding the budget submission process and Mr. Kimmel asked if the budget is not approved in April, if there is sufficient time for the Parking Authority to make adjustments if necessary? Mr. Brescia said "yes". Mr. Kimmel said if they have no problem with that scenario, then he has no problem enforcing the memo of understanding, and leaving the ordinance as it is. He said that now that the communication has been established, he hopes that it will continue, and the memo of understanding will consolidate that procedure so some of the problems that were in the past may be eliminated. Mr. Livingston said if rates are adjusted after the budget is approved then the Common Council will not have any approval. Ms. O'Toole Giandurco said that she is unclear why the memo of understanding was signed when it is still being discussed. Mr. Hempstead said that the memo of understanding is technically not enforceable if it is not in the ordinance, and is only an agreement between two parties and has no weight, so if the goal is to have the rate structure presented to the council for consideration, then they should be submitted with the budget.

**** MR. LIVINGSTON MOVED TO APPROVE THAT THE PARKING FEE INCREASES THAT ARE NOT INCLUDED IN THE APPROVED BUDGET SHALL BE SUBMITTED BY THE EXECUTIVE DIRECTOR OF THE AUTHORITY TO THE BOARD OF ESTIMATE AND TAXATION AND THE COMMON COUNCIL FOR THEIR CONSIDERATION AND APPROVAL.**

**** THE MOTION PASSED UNANIMOUSLY**

**** MR. HEMPSTEAD MOVED TO APPROVE THE ITEM AS AMENDED.**

**** MOTION PASSED UNANIMOUSLY**

Senior Tax Relief

Mr. Kimmel said that he would like to commend the Finance Committee and the Ordinance Committee for doing this. He said that it's a small increase from Tier I, but the qualifying income has been changed in Tier I from \$42,900 to \$46,500, which means that a minimum of 82 families

will be able to increase their tax credit from \$750 to \$1400. He said that this is worth supporting, and going forward it will be revisited this each year.

**** MR. KIMMEL MOVED TO APPROVE THE ITEM**

**** MOTION PASSED UNANIMOUSLY**

4. PUBLIC COMMENT

Ms. Laurcella said that she recommends institutionalizing the Bike Walk Task Force into a commission.

Ms. Laurcella said that she is here tonight to represent South Norwalk Citizens for Justice, and that people have experienced excessive continued noise issues for years. She said that they are very interested in participating in an effort to reform and amend this ordinance, so that it is more user friendly for the police, as well as the citizens who have to interpret it to see whether or not there are violations. She said they have been doing some research on how to make this a more user friendly ordinance, and requested that before any decisions are made to amend the ordinance that the needs and issues related to the South Norwalk Citizens for Justice are included with this effort. She recommended that an independent noise expert be brought on that can help this commission understand the health effects of noise. She also said that the fines in the ordinance are very low and requested working with the State Legislator to change them.

Mr. Tom Rich said that he owns property in South Norwalk and that there is a problem with noise in the neighborhood that is impacting the quiet enjoyment to the people that live there, and it has gone on far too long. He said that the ordinance needs to be tweaked, and the fine is not an incentive for people to follow the law, and if the noise ordinance is violated it is only a \$100 fine. He said that the fine is meaningless to the violators that are in the neighborhood that he is involved with compared to the revenue they bring in, and that the ordinance needs to be changed to provide a foundation for the police to do their job, as well as the zoning enforcement officers.

Mr. Vernon Howard said that he lives at 110 Washington Street said that he has been dealing with the noise for three years and that it needs to be addressed.

Chief Kulhawik said that he agrees with everything that has been said so far, and that they are working with the issues as far as the officers understating on how to enforce the noise ordinance. He said that there are other parts of the ordinance that should be looked at in the long term but that it gets very complicated, so he suggested moving forward with the two minor changes to allow the police to better enforce the noise ordinance, and will allow them to issue violations that zoning can then use as proof to take zoning action.

Mr. Simms asked that the committee be provided with the names of the establishments that are violating the noise ordinance. He said that he agrees that something needs to be done about the noise and said the committee will take the appropriate steps to do that.

Mr. Nick Rodrigues said that he the property manager for a building on Washington Street, and said that the noise is an issue for some of their residents as well as some prospects that are looking to lease in their building. He said that he prefers this to get handled now as opposed to in the future because South Norwalk is up and coming and the noise is a detractor for people to move into the area.

5 ACCEPTANCE OF MINUTES

January 17, 2017

**** MS. O'TOOLE GIANDURCO MOVED TO APPROVE THE MINUTES
** MR. KIMMEL SECONDED THE MOTION
** MOTION PASSED WITH SIX IN FAVOR AND ONE ABSTENTION- MR.
HEMPSTEAD**

6. OLD BUSINESS

Indemnification

Mr. Livingston said the changes are a good but that it should track the language of the State Statue, and if we want it to give complete coverage provided by the Statue we want to be sure it covers the same people and this does not do that. Ms. Melendez asked Sapienza to research the consequences would be without these provisions and report back to the committee next month.

Arts Commission

Ms. Melendez said that she received an email from Ms. Wallerstein stating that they are trying to meet a deadline of March 15, 2017, if possible to apply for a state grant. Mr. Hempstead asked if it would appropriate to include a disclaimer that nothing within the creation of the Arts Commission has the ability to serve by any other powers that were previously given to any other boards or commissions, because their bylaws will be giving them certain powers. Mr. Livingston suggested that under the purposes and duties that it state that in no event that the acts or the proposed acts of the commission conflict with the lawful designated duties of any other city, body or commission. He also suggested under the establishment; membership; appointment; terms in

office that in the second paragraph to delete the last sentence, and change the second to last sentence of the first paragraph to state that any vacancy shall be filled by the Mayor with the consent of the Common Council for the unexpired portion of the term of the members whose place shall become vacant, and the next paragraph should read the member of the Common Council shall serve only during their term in office as council member, and upon the expiration of such terms of office the vacancies shall be filled by the Common Council.

****MR. KIMMEL MOVED TO APPROVE THE AMENDED CHANGES.**

**** MR. HEMPSTEAD SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MS. KIMMEL MOVED TO APPROVE THE ITEM WITH THE AMENDED LANGUAGE TO SEND TO THE NEXT COMMON COUNCIL MEETING.**

****MR. LIVINGSTON SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

7. NEW BUSINESS

Noise Ordinance

Mr. Sapienza provided an overview of the changes and said that the first proposed change is to section 68-4 (d) and is to change from the "least restrictive" to "more restrictive" because the current decibel level is loud for a residential dwelling, and by changing this from least restrictive to more restrictive would lower the decibel levels which would be a good start to site someone. He said that the second proposed amendment is to section 68-10 and is to change the language to put a scale of the fines that states \$99 for the first offense and \$250 for each subsequent offense within one year of the last offense. He said that fines for municipal ordinances are limited to \$250 unless it is specifically authorized by State Statute. He said that the state DEEP regulates the noise ordinances, and whatever is decided on this ordinance prior to going to Common Council for approval, is required to be sent to the DEEP for their approval. Mr. Livingston asked how long that will take? Mr. Sapienza said within a couple of weeks. Ms. O'Toole Giandurco asked if there is a specific establishment that is the problem or is it a general issue. Ms. Melendez said that the problem is being brought up by a specific group, but the changes will not only affect that specific group. Ms. O'Toole Giandurco asked Chief Kulhawik if these changes will be enough to give the police more jurisdiction? Chief Kulhawik said "yes" and it has been discussed at length about what can be done in the short term. Mr. Hempstead said there will also need to be additional changes to the ordinance for the long term, and that there is a method to solve the problem. Mr. Simms said that the establishments that are consistently in violation should be given a seize and assist order at some point. Mr. Kimmel asked what the maximum fine is for blight? Mr. Sapienza said \$250. Mr. Livingston requested that the changes be submitted to the DEEP simultaneously with it going to a public hearing to keep things moving.

**** MR. KIMMEL MOVED TO APPROVE THE CHANGES AS DISCUSSED TO SECTIONS 68-4 (D) AND 68-10 AND SEND THEM TO A PUBLIC HEARING ON MARCH 21, 2017.**

Bike/Walk Task Force

Mr. Sapienza said that this is a proposed new ordinance to turn the bike force into an advisory committee. Ms. Rosett said that they are seeking to institutionalize what the Mayors Bike Walk Task Force has done over the past four years, and there is no other group in the city that is spearheading walking and bicycle issues. She said in the recommended ordinance that in addition to the seven members appointed by the Mayor and approved by the Common Council, it will also have the heads of four departments that they see as key with bicycling and walking issues as ex-officio members of the committee. She said that the idea is that they would be working with all of these groups, and try to get into projects early in the planning process to make the city much friendlier for bikers and walkers, and it's an issue that they feel benefits all the various publics that live in Norwalk. She said there is also an educational component and that there is no one in the city that is charged with that, and they feel that is very important to enhance the safety of the citizens.

Mr. Callahan said that he had gotten involved in the Bike Walk Task Force two years ago, and he feels that physical activity is key to addressing some very pressing crisis that we are confronted with. He said that they have done assessments of the health status of our city and know that chronic diseases are unfortunately increasing and for many people, and that it is preventable and one way to do that is physical activity. He said the work of the Bike Walk Task Force is long term because changing the approach on how to construct the city to make it conducive to use for either transportation or recreation is going to take time. He said that turning the task force into an advisory committee will set things up for the long term and he strongly supports this.

Mr. Kimmel said this is counter intuitive and it is not a debatable issue at this time whether bike lanes reduce speed, because they do and it is not something that should be debated in Norwalk. He said that he does support this and when there are extra layers of government it will allow qualifying for grant applications. Mr. Corsello asked what the advisory committee will do that the task force is not already doing? Ms. Rosett said that the task force serves as at the pleasure of the Mayor, and that one of their concerns is when the Mayor changes what will happen to the task force, and the other is they would have more weight if they were established by an ordinance and gives a stronger voice. Ms. O'Toole Giandurco asked where the request to turn the task force into a committee is originating from? Ms. Rosett said from the Mayor. Mr. Hempstead asked if an advisory group is officially recognized and a condition is created if it becomes a liability for the city, and why the police department or commissioners are not involved since they are the Traffic Authority? Mr. Livingston said that he supports this but it is putting burdens on the department heads and recommended that at a minimum they should be able to appoint a designee. He also asked what they are trying to accomplish as a commission that they could not as a task force, and if there will be different types of responsibilities. There was further discussion ensued

and it was requested that Mr. Sapienza will research what the liability is for an advisory committee and report back to the committee next month.

8.ADJOURNMENT

**** MR. LIVINGSTON MOVED TO ADJOURN
** MR. KIMMEL SECONDED THE MOTION
** MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:25 PM

Respectfully submitted,

Dilene Byrd

Telesco Secretarial Services

Indemnification

(Norwalk City Code § 67A-1)

Chapter 67A. Municipal Liability

§ 67A-1. Indemnification.

[Amended 7-9-2002]

The City of Norwalk shall protect and save harmless and shall defend any lawsuit or administrative proceeding instituted against any municipal officer, whether elected or appointed, of any board, committee, council, agency or commission of the City in accordance with applicable provisions of the Connecticut General Statutes including, but not limited to, Section 7-101a, as that section may be amended from time to time. ~~a director, commissioner or representative appointed or confirmed by the City of Norwalk of the Maritime Center Authority, the Transit District, the Housing Authority, the Redevelopment Agency, the Norwalk Harbor Management Commission, the Norwalk-Wilton Convention and Visitors Commission and District, the Southwestern Regional Planning Agency, the Interlocal for the Connecticut Resource Recovery Authority, the Housing Sites Development Agency, the Norwalk Parking Authority, the Norwalk Water Pollution Control Authority or any other such agency which is not normally insured by the City of Norwalk and which the Mayor designates to be insured by the City of Norwalk for damages awarded for infringement of any person's civil rights or physical damage to person or property or breach of contractual obligations or claim arising out of the performance of the person's duties in an action brought against said director, commissioner or representative for acts or omissions occurring in the performance of governmental functions or while, acting within the scope of the person's duties. The City shall be liable for the acts or omissions occurring in the performance of governmental functions or duties of a director, Commissioner or representative so long as the person acts in good faith in the exercise of honest judgment and not maliciously, wantonly or in abuse of discretion.~~

§ 67A-2. Defense provisions.

The City shall defend any action brought against the municipal officer~~director, commissioner or representative~~. It shall not be liable for any judgment, settlement or for fees of attorneys or other costs if a municipal officer~~director, commissioner or representative~~ does not notify the City Clerk, in writing, within 10 days of his/her first notice of presentation or institution of a claim or a lawsuit or chooses to defend any action on his/her own without the authority of the Mayor or the Corporation Counsel, unless it is determined that the city was required to represent the interests of such person and has failed to provide counsel for such person.

§ 67A-3. Notice of withdrawal of defense.

In the event that the City of Norwalk determines at any time that it will not defend or save harmless the municipal officer~~director, commissioner or representative of the within-named authorities or agencies~~ as a result of the person's acts or omissions occurring not in the performance of governmental functions or within the scope of the person's duties or if the person has acted in bad faith and not in the exercise of honest judgment or has acted maliciously, wantonly or in abuse of his/her discretion, the Mayor or the Corporation Counsel shall give

prompt written notice to the person that the city will withdraw coverage and provision of defense as established by this chapter. The Mayor shall deliver written notice of the withdrawal to the Common Council at its next regular meeting. The withdrawal shall be effective unless rejected by a resolution of the Common Council.

§ 67A-4. Notice of withdrawal of policy to save harmless.

In the event that the City of Norwalk determines, at the time of the institution of any suit or administrative proceeding or at any time during the course of said suit or proceeding, that it will not defend said action or proceeding or protect and save harmless the ~~director, commissioner or representative of the within-named authorities or agencies~~ municipal officer as a result of the person's acts or omissions occurring not in the performance of governmental functions or within the scope of the person's duties or if the person has acted in bad faith and not in the exercise of honest judgment or has acted maliciously, wantonly or in abuse of his/her discretion, the Mayor or the Corporation Council shall give prompt written notice to the person that the city will not defend and shall not protect and save harmless from any judgment or order entered in the lawsuit or administrative proceeding. The Mayor shall deliver written notice of the withdrawal to the Common Council at its next regular meeting. The withdrawal shall be effective unless rejected by a resolution of the Common Council: provided, further, that, in an appropriate case as determined by the Corporation Counsel, the city may elect to defend said person under a reservation of rights upon written notice to the person of such reservation of rights and upon informing the individual of a right to seek independent counsel.

§ 67A-5. Effect of existing coverage.

In the event that a ~~director, commissioner or representative~~ municipal officer is covered by an insurance policy in effect at the effective date of this chapter, this chapter shall not take effect as to the ~~director, commissioner or representative~~ municipal officer until the City Clerk has been advised, in writing, by the board, committee, council, agency or commission ~~authority or agency~~ that the current insurance has terminated by reason of expiration or nonrenewal by the insurer.

Connecticut General Statutes Annotated
Title 7. Municipalities
Chapter 97. Municipalities: General Provisions

C.G.S.A. § 7-101a

§ 7-101a. Protection of municipal officers and municipal employees from damage suits. Reimbursement of defense expenses. Liability insurance. Time limit for filing notice and commencement of action

Currentness

(a) Each municipality shall protect and save harmless any municipal officer, whether elected or appointed, of any board, committee, council, agency or commission, including any member of a local emergency planning committee appointed from such municipality pursuant to section 22a-601, or any municipal employee, of such municipality from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence, or for alleged infringement of any person's civil rights, on the part of such officer or such employee while acting in the discharge of his duties.

(b) In addition to the protection provided under subsection (a) of this section, each municipality shall protect and save harmless any such municipal officer or municipal employee from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand or suit instituted against such officer or employee by reason of alleged malicious, wanton or wilful act or ultra vires act, on the part of such officer or employee while acting in the discharge of his duties. In the event such officer or employee has a judgment entered against him for a malicious, wanton or wilful act in a court of law, such municipality shall be reimbursed by such officer or employee for expenses it incurred in providing such defense and shall not be held liable to such officer and employee for any financial loss or expense resulting from such act.

(c) Each such municipality may insure against the liability imposed by this section in any insurance company organized in this state or in any insurance company of another state authorized to write such insurance in this state or may elect to act as self-insurer of such liability.

(d) No action shall be maintained under this section against such municipality or employee unless such action is commenced within two years after the cause of action therefor arose nor unless written notice of the intention to commence such action and of the time when and the place where the damages were incurred or sustained has been filed with the clerk of such municipality within six months after such cause of action has accrued.

(e) For the purposes of this section "municipality" means any town, city, borough, consolidated town and city, consolidated town and borough, district, district department of health, or authority established by the general statutes, a special act or local law, ordinance or charter or any public agency.

Credits

(1971, P.A. 726; 1975, P.A. 75-408, § 1; 1977, P.A. 77-399; 1980, P.A. 80-403, § 9, eff. May 23, 1980; 1989, P.A. 89-212, § 11; 1989, P.A. 89-378.)

Notes of Decisions (22)

C. G. S. A. § 7-101a, CT ST § 7-101a

The statutes and Constitution are current with enactments of the 2016 February Regular Session, the 2016 May Special Session, and the 2016 September Special Session.

End of Document

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Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 113. Municipal Employees (Refs & Annos)

Part III. General Provisions (Refs & Annos)

C.G.S.A. § 7-465

§ 7-465. Assumption of liability for damage caused by employee of municipality
or member of local emergency planning district. Joint liability of municipalities
in district department of health or regional council of governments

Effective: October 1, 2015

Currentness

(a) Any town, city or borough, notwithstanding any inconsistent provision of law, general, special or local, shall pay on behalf of any employee of such municipality, except firemen covered under the provisions of section 7-308, and on behalf of any member from such municipality of a local emergency planning district, appointed pursuant to section 22a-601, all sums which such employee becomes obligated to pay by reason of the liability imposed upon such employee by law for damages awarded for infringement of any person's civil rights or for physical damages to person or property, except as set forth in this section, if the employee, at the time of the occurrence, accident, physical injury or damages complained of, was acting in the performance of his duties and within the scope of his employment, and if such occurrence, accident, physical injury or damage was not the result of any wilful or wanton act of such employee in the discharge of such duty. This section shall not apply to physical injury to a person caused by an employee to a fellow employee while both employees are engaged in the scope of their employment for such municipality if the employee suffering such injury or, in the case of his death, his dependent, has a right to benefits or compensation under chapter 568¹ by reason of such injury. If an employee or, in the case of his death, his dependent, has a right to benefits or compensation under chapter 568 by reason of injury or death caused by the negligence or wrong of a fellow employee while both employees are engaged in the scope of their employment for such municipality, such employee or, in the case of his death, his dependent, shall have no cause of action against such fellow employee to recover damages for such injury or death unless such wrong was wilful and malicious or the action is based on the fellow employee's negligence in the operation of a motor vehicle, as defined in section 14-1. This section shall not apply to libel or slander proceedings brought against any such employee and, in such cases, there is no assumption of liability by any town, city or borough. Any employee of such municipality, although excused from official duty at the time, for the purposes of this section shall be deemed to be acting in the discharge of duty when engaged in the immediate and actual performance of a public duty imposed by law. Such municipality may arrange for and maintain appropriate insurance or may elect to act as a self-insurer to maintain such protection. No action for personal physical injuries or damages to real or personal property shall be maintained against such municipality and employee jointly unless such action is commenced within two years after the cause of action therefor arose and written notice of the intention to commence such action and of the time when and the place where the damages were incurred or sustained has been filed with the clerk of such municipality within six months after such cause of action has accrued. Governmental immunity shall not be a defense in any action brought under this section. In any such action the municipality and the employee may be represented by the same attorney. As used in this section, "employee" includes (1) a member of a town board of education and any teacher, including a student teacher doing practice teaching under the direction of such a teacher, or other person employed by such board, and (2) a member of the local emergency planning committee from such municipality appointed pursuant to section 22a-601. Nothing in this section shall be construed to abrogate the right of any person, board or commission which may accrue under section 10-235.

(b) Each town, city or borough which has joined with other towns, cities or boroughs to form a district department of health, pursuant to chapter 368f,² or a regional council of governments, pursuant to section 4-124j, shall jointly assume the liability imposed upon any officer, agent or employee of such district department of health or such regional council of governments, acting in the performance of his duties and in the scope of his employment, under, and in the manner and in accordance with the procedures set forth in, subsection (a) of this section. Such joint assumption of liability shall be proportionately shared by the towns, cities and boroughs in such district or regional council of governments, on the same basis that the expenses of such district are shared as determined under section 19a-243.

Credits

(1957, P.A. 401, § 1; 1959, P.A. 651, § 1; 1961, P.A. 375; 1963, P.A. 97; 1965, Feb.Sp.Sess., P.A. 277; 1971, P.A. 226, § 1, eff. Oct. 1, 1971; 1973, P.A. 73-610; 1975, P.A. 75-408, § 3; 1977, P.A. 77-502, § 1; 1981, P.A. 81-229, § 2; 1982, P.A. 82-472, § 20, eff. June 14, 1982; 1985, P.A. 85-521, § 1; 1989, P.A. 89-212, § 12; 2003, P.A. 03-278, § 19, eff. July 9, 2003; 2013, P.A. 13-247, § 273, eff. Jan. 1, 2015; 2015, P.A. 15-85, § 1.)

Notes of Decisions (197)

Footnotes

1 C.G.S.A. § 31-275 et seq.

2 C.G.S.A. § 19a-400 et seq.

C. G. S. A. § 7-465, CT ST § 7-465

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2017.

End of Document

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Connecticut General Statutes Annotated

Title 52. Civil Actions

Chapter 925. Statutory Rights of Action and Defenses (Refs & Annos)

C.G.S.A. § 52-557n

§ 52-557n. Liability of political subdivision and its employees, officers
and agents. Liability of members of local boards and commissions

Currentness

(a) (1) Except as otherwise provided by law, a political subdivision of the state shall be liable for damages to person or property caused by: (A) The negligent acts or omissions of such political subdivision or any employee, officer or agent thereof acting within the scope of his employment or official duties; (B) negligence in the performance of functions from which the political subdivision derives a special corporate profit or pecuniary benefit; and (C) acts of the political subdivision which constitute the creation or participation in the creation of a nuisance; provided, no cause of action shall be maintained for damages resulting from injury to any person or property by means of a defective road or bridge except pursuant to section 13a-149. (2) Except as otherwise provided by law, a political subdivision of the state shall not be liable for damages to person or property caused by: (A) Acts or omissions of any employee, officer or agent which constitute criminal conduct, fraud, actual malice or wilful misconduct; or (B) negligent acts or omissions which require the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

(b) Notwithstanding the provisions of subsection (a) of this section, a political subdivision of the state or any employee, officer or agent acting within the scope of his employment or official duties shall not be liable for damages to person or property resulting from: (1) The condition of natural land or unimproved property; (2) the condition of a reservoir, dam, canal, conduit, drain or similar structure when used by a person in a manner which is not reasonably foreseeable; (3) the temporary condition of a road or bridge which results from weather, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe; (4) the condition of an unpaved road, trail or footpath, the purpose of which is to provide access to a recreational or scenic area, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe; (5) the initiation of a judicial or administrative proceeding, provided that such action is not determined to have been commenced or prosecuted without probable cause or with a malicious intent to vex or trouble, as provided in section 52-568; (6) the act or omission of someone other than an employee, officer or agent of the political subdivision; (7) the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization, when such authority is a discretionary function by law, unless such issuance, denial, suspension or revocation or such failure or refusal constitutes a reckless disregard for health or safety; (8) failure to make an inspection or making an inadequate or negligent inspection of any property, other than property owned or leased by or leased to such political subdivision, to determine whether the property complies with or violates any law or contains a hazard to health or safety, unless the political subdivision had notice of such a violation of law or such a hazard or unless such failure to inspect or such inadequate or negligent inspection constitutes a reckless disregard for health or safety under all the relevant circumstances; (9) failure to detect or prevent pollution of the environment, including groundwater, watercourses and wells, by individuals or entities other than the political subdivision; or (10) conditions on land sold or transferred to the political subdivision by the state when such conditions existed at the time the land was sold or transferred to the political subdivision.

Relevant subsection (c)
is on next page →

(c) Any person who serves as a member of any board, commission, committee or agency of a municipality and who is not compensated for such membership on a salary or prorated equivalent basis, shall not be personally liable for damage or injury occurring on or after October 1, 1992, resulting from any act, error or omission made in the exercise of such person's policy or decision-making responsibilities on such board, commission, committee or agency if such person was acting in good faith, and within the scope of such person's official functions and duties, and was not acting in violation of any state, municipal or professional code of ethics regulating the conduct of such person, or in violation of subsection (a) of section 9-369b or subsection (b) or (c) of section 1-206. The provisions of this subsection shall not apply if such damage or injury was caused by the reckless, wilful or wanton misconduct of such person.

Credits

(1986, P.A. 86-338, § 13, eff. Oct. 1, 1986; 1992, P.A. 92-198; 1993, P.A. 93-290.)

Notes of Decisions (449)

C. G. S. A. § 52-557n, CT ST § 52-557n

The statutes and Constitution are current with enactments of the 2016 February Regular Session, the 2016 May Special Session, and the 2016 September Special Session.

End of Document

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Note: 3/15/17 - This provision refers to IMMUNITY not INDEMNIFICATION. IMMUNITY ~~is~~ a defense to a legal action. It has nothing to do with whether a municipality will indemnify its officials. Therefore, this provision does NOT apply to the ordinance at issue.

Location:

LIABILITY, LEGAL; MUNICIPAL OFFICIALS AND EMPLOYEES;

**OLR RESEARCH REPORT**

December 14, 2009

2009-R-0444

CIVIL LIABILITY OF A MUNICIPAL OFFICIAL

By: George Coppolo, Chief Attorney

You asked for general information about the civil liability of a person who serves as a municipality's first selectman including whether (1) someone could sue the official individually for actions that he or she took in the capacity as first selectman and (2) the municipality's liability insurance might provide some protection.

Our office is not authorized to give legal opinions and this report should not be considered one.

SUMMARY

Connecticut statutory and common law provides municipal officials with significant protection from civil liability. But the law does not provide total immunity. Thus, under certain circumstances municipal officials can be sued individually. Also, under certain circumstances, the law requires municipalities to indemnify municipal officials who are sued because of actions they took in their official capacity.

Municipalities can purchase insurance to protect themselves and municipal officials who are sued because of actions they took in their official capacity. Municipal officials should examine any insurance policy that a municipality has purchased to determine whether the insurance policy provides adequate protection from personal liability in light of Connecticut's law that provides limited immunity and requires municipalities to indemnify municipal officials under certain circumstances.

STATUTORY IMMUNITY FOR MUNICIPAL OFFICIALS

CGS § 52-557n(b) makes municipalities and their employees, officials, and agents acting within the scope of their employment or official duties immune from civil liability for damages resulting from:

1. the condition of natural land or unimproved property;
2. the condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person in a manner that is not reasonably foreseeable;
3. the temporary condition of a road or bridge which results from weather, if the municipality has not received notice and has not had a reasonable opportunity to make the condition safe;
4. the condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreational or scenic area, if the municipality has not received notice and has not had a reasonable opportunity to make the condition safe;
5. starting a judicial or administrative proceeding, unless it was commenced or prosecuted without probable cause or with a malicious intent to vex or trouble;
6. the act or omission of someone other than a municipal employee, office, or agent;
7. the issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, when such authority is a discretionary function by law, unless the action or referral constitutes a reckless disregard for health or safety;
8. failure to inspect or making an inadequate or negligent inspection of any property, other than property owned or leased by or leased to the municipality, to determine whether the property complies with or violates any law or contains a hazard to health or safety, unless the municipality (a) had notice the violation of law or such a hazard or (b) the failure to inspect or such inadequate or negligent inspection constitutes a reckless disregard for health or safety under all the relevant circumstances;
9. failure to detect or prevent pollution of the environment including groundwater, watercourses, and wells, by individuals or entities other than the municipality; or
10. conditions on land sold or transferred to the municipality by the state when such conditions existed at the time the land was sold or transferred to the municipality.

Liability of Uncompensated Municipal Officials

CGS § 52-557n(c) makes those who serve as a member of any municipal board, commission, committee, or agency and who are not compensated on a salary or prorated equivalent basis, immune from civil liability for damage or injury resulting from any act, error, or omission made in the exercise of their policy or decision-making responsibilities if they were:

1. acting in good faith and within the scope of their official functions and duties and
2. not violating (a) any state, municipal, or professional code of ethics regulating the conduct of such person, (b) their duty to prepare and print a concise explanatory text of local proposals or questions approved for submission to the electors of a municipality at a referendum as required by law (CGS § 9-369b(a)); or (c) the law prohibiting public officials from denying access to public records or meetings (CGS § 1-206(b) or (c)).

This immunity applies to negligence on the part of a public official in their decision making capacity. But it does not apply to damages or injuries caused by their reckless, willful, or wanton misconduct.

Negligence. In order to recover under a negligence theory, an injured person must prove (1) the defendant owed him a duty of care, (2) the defendant breached this duty, and (3) he or she was injured because of the breach.

Common-law negligence is the failure to use reasonable care under the circumstances. A duty to use care exists when a reasonable person, knowing what the defendant either knew or should have known at the time of the challenged conduct, would foresee that harm of the same general nature as that which occurred was likely to result from that conduct (*Coburn v. Lenox Homes, Inc.*, 186 Conn. 370, 375 (1982)).

Reasonable care is the care that a reasonably prudent person would use in the same circumstances (*Hoelter v. Mohawk Services, Inc.*, 170 Conn. 495, 501 (1976)). In determining the care that a reasonably prudent person would use in the same circumstances, the jury (or court in a non-jury case) must consider all of the circumstances that were known or should have been known to the defendant at the time of the conduct in question. Whether care is reasonable depends upon the dangers that a reasonable person would perceive in those circumstances (*Galligan v. Blais*, 170 Conn. 73, 77 (1976); *Pleasure Beach Park Co. v. Bridgeport Dredge & Dock Co.*, 116 Conn. 496, 503 (1933); *Geoghegan v. G. Fox & Co.*, 104 Conn. 129, 134 (1926)).

Willful, Wanton, and Reckless Misconduct. Under Connecticut law, willful, wanton, or reckless misconduct refers to unreasonable conduct involving an extreme departure from ordinary care in a situation where a high degree of danger is apparent. The conduct must be more than any mere mistake resulting from inexperience, excitement, or confusion, and more than mere thoughtlessness, inadvertence, or inattention (*Pouliot v. Arpin Van Lines, Inc.*, 367 F. Supp. 267 (D. Conn. 2005)).

Common Law Immunity

The common law appears to provide similar immunity for compensated municipal officials as this statute does for uncompensated officials.

COMMON-LAW IMMUNITY FOR MUNICIPAL OFFICIALS

The common law gives compensated and uncompensated municipal officials qualified immunity from civil liability when performing discretionary functions. A municipal official's immunity for performing discretionary governmental functions is qualified by three recognized exceptions:

1. the circumstances make it apparent to the public official that his or her failure to act would be likely to subject an identifiable person to imminent harm;
2. a statute that authorizes a person to sue a municipality or municipal official for failure to enforce certain laws; or
3. the alleged acts involve malice, wantonness, or intent to injure, rather than negligence (*Spears v Garcia*, 263 Conn. 22 (2003)).

"Governmental acts" for which municipal officials have qualified immunity are performed wholly for the direct benefit of the public and are supervisory or discretionary in nature. The hallmark of a discretionary act is that involve the exercise of judgment. In contrast, ministerial acts refers to a duty that is to be performed in a prescribed manner without the exercise of judgment or discretion (*Bailey v. Town of West Hartford*, 100 Conn. App. 805 (2007)). The common law does not provide immunity to municipal officials for negligently performing ministerial acts.

The imminent harm exception to discretionary act immunity applies when the circumstances make it apparent to the public official that his or her failure to act would be likely to subject an identifiable person to imminent harm. This test requires three things: (1) imminent harm, (2) an identifiable victim, and (3) a public official to whom it is apparent that his or her conduct is likely to subject that victim to that harm (*Violano v. Fernandez*, 280 Conn. 310 (2006)).

An injured person who claims that an official's conduct was wanton, reckless, willful, or intentional must prove the official's conduct was more than negligence, and more than gross negligence. The injured person must prove that the official's conduct amounted to a reckless disregard of the rights or safety of others (*Belanger v. City of Hartford*, 578 F. Supp. 2d, 360, District of Connecticut (2008)).

INDEMNIFICATION AND REIMBURSEMENT FOR MUNICIPAL OFFICIALS

CGS § 7-101a

A statute requires each municipality to indemnify any elected or appointed municipal official, or any municipal employee from financial loss and expense, including legal fees and costs, arising out of any claim, demand, suit, or judgment for negligence or infringement of civil rights by the official or employee while acting in the discharge of his or her duties (CGS § 7-101a (a)).

The law also requires each municipality to indemnify municipal officials and employees from financial loss and expense, including legal fees and costs arising

out of any claim, demand, or suit instituted against them by reason of an alleged malicious, wanton, or willful act, or any act beyond the scope of their authority while acting in the discharge of their duties. But an official or employee who has a judgment entered against him or her for a malicious, wanton, or willful act, must

reimburse the municipality for expenses it incurred in providing such defense and the municipality may not be held liable to such official or employee for any financial loss or expense resulting from such an act (CGS § 7-101a(b)).

This duty to indemnify only applies if (1) the lawsuit is initiated within two years after the cause of action arose and (2) written notice of the intention to sue and of the time and place where the damages were incurred or sustained has been filed with the municipality's clerk within six months after the cause of action has accrued (CGS § 7-101a(d)).

The law authorizes each municipality to insure against the duty to indemnify or elect to act as self-insurer of such liability (CGS § 7-101 a(c)).

CGS § 7-465

A separate statute also requires municipalities to indemnify municipal employees for all sums the employees become obligated to pay for damages awarded for infringing any person's civil rights or for physical damages to person or property, if the employees, at the time of the occurrence, accident, physical injury, or damages complained of, were (1) acting in the performance of their duties and within the scope of their employment, and (2) the occurrence, accident, physical injury, or damage was not the result of the their willful or wanton act (CGS § 7-465). This statute specifies that a municipality may arrange for and maintain appropriate insurance or may elect to act as a self-insurer to maintain protection for lawsuits filed against it under this statute's provisions.

This statute's indemnification requirement does not apply to:

1. libel or slander proceedings brought against an employee or
2. physical injury to an employee caused by another employee while both are engaged in the scope of their employment for the municipality if the injured employee or his or her dependent, has a right to workers' compensation benefits or compensation.

No action for personal physical injuries or damages to real or personal property may be maintained against such municipality and employee jointly unless (1) the lawsuit is commenced within two years after the cause of action arose and (2) written notice of the intention to commence the action and of the time and place where the damages were incurred or sustained has been filed with the clerk of such municipality within six months after the cause of action accrued.

This statute specifies that the doctrine of "governmental immunity" is not a defense in any lawsuit filed under its provisions.

This statute also specifies that in any lawsuit filed under its provisions, the municipality and the employee may be represented by the same attorney if the municipality, when the attorney enters his or her appearance, files a statement with the court that it will pay any final judgment rendered in the lawsuits against the employee.

GC:df

Bike-Walk Advisory **Committee**

[Proposed Ordinance]

[Revisions updated after Ordinance Committee meeting on 02/21/17].

Chapter ____ . Bike/Walk Advisory Committee

§ ____ . Composition.

The Bike/Walk Advisory Committee shall be composed of seven members to be nominated by the Mayor and approved by the Common Council. The Mayor shall designate one of the seven members as Chairman. Each member of the Committee shall be appointed for a term of three years, and terms shall be staggered. The terms of the initial members shall be as follows: two members with terms to expire June, 2018; three members with a term to expire June 30, 2019; and two members with terms to expire June 30, 2020. Thereafter, the terms for all members shall be for three years commencing on July 1st. If a member shall terminate in advance of his or her term, his or her replacement shall be appointed by the Mayor to complete his or her term. The Committee may request the Mayor to remove any member who is absent 25% or more in a year. Members shall serve without compensation. The Directors or their designees of the Planning & Zoning, Public Works and Health Departments, and the Executive Director of the Redevelopment Agency or his designee, and the Police Chief or his designee shall serve ex officio with a vote. Staff support shall be provided by the Public Works and Health Departments.

§ ____ . Duties.

A. The Bike/Walk Advisory Committee supports bicycling and walking as safe, convenient, and sustainable forms of transportation and recreation that increase Norwalk's livability and economic vitality, and improve public and environmental health.

B. The Committee will work with the Planning and Zoning, Public Works and Health Departments to:

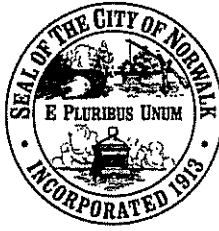
- (1) Promote Complete Streets programs and facilities for bicycles and pedestrians in Norwalk;
- (2) Coordinate public awareness campaigns, educational trainings and events;
- (3) Work with appropriate City agencies and departments to review and advise on projects having an impact on walking and biking in the City from the earliest stage possible.

CITY OF NORWALK

LAW DEPARTMENT

CITY HALL
125 EAST AVENUE, P.O. BOX 5125
NORWALK, CONNECTICUT 06856-5125

TEL: (203) 854-7750
FAX: (203) 854-7901



MEMORANDUM TO COMMITTEE

Date: 03/15/2017

To: Ordinance Committee

From: Matthew Sapienza, Associate Corporation Counsel

Re: **Proposed ordinance for Bike/Walk Committee – Can an advisory committee expose a municipality to legal liability?**

I. Issue

At the Ordinance Committee (“Committee”) meeting on 02/21/2017, the Committee asked me to research whether an advisory committee can expose a municipality to legal liability.

II. Legal Analysis

First, it should be noted that using the term “advisory” in the name of a committee¹ does not, in and of itself, make the committee advisory. The term has no legal significance. What makes a committee advisory or not are the powers and authority that are given to the committee in the ordinance.

Whether an advisory committee can expose a municipality to legal liability depends on *who*, *when*, and *how* the committee is advising. Without answers to these questions, the issue is too broad to provide an accurate answer.

That being said, the following is a brief, general summary of municipal liability in negligence cases:

In general, while a municipality has governmental immunity in some cases of alleged negligence, there are several exceptions to this rule. First, a municipality is generally liable for the misperformance of a ministerial act, as opposed to a discretionary act. “The hallmark of a discretionary act is that it requires the exercise of judgment ... In contrast, [m]inisterial refers to a duty which is to be performed in a prescribed manner without the exercise of judgment or discretion.” (Internal quotation marks omitted.) *Smart v. Corbitt*, 126 Conn.App. 788, 800 (2011).

Moreover, the Connecticut Supreme Court has stated that there are certain exceptions to governmental immunity for discretionary acts. “[W]here the duty of the public official to act is not ministerial but instead involves the exercise of discretion, the negligent failure to act will not subject the public official to liability unless the duty to act is clear and unequivocal ... One exception is when it would be apparent to the public officer that his failure to act would be likely

¹ Throughout this memorandum, the term “committee” is meant to include boards, agencies, etc.

to subject an identifiable person to imminent harm ... Another exception...to the general rule is where the complaint alleges an action involving malice, wantonness or intent to injure, rather than negligence.” (Citations omitted; internal quotation marks omitted.) *Gordon v. Bridgeport Housing Authority*, 208 Conn. 161, 167 (1988).

Finally, an important part of many negligence cases, particularly those involving premises liability, is whether a municipality had notice of the alleged defect. A formal opinion of an advisory committee would almost certainly count as notice for the municipality.

In conclusion, the law regarding municipal liability for negligence is extensive and fairly complicated. It would be impossible to provide an answer as to a municipality’s liability from an advisory committee’s “advice” without knowing to whom, when, and how the advisory committee will be delivering said advice.

Sapienza, Matt

Subject:

FW: Two Questions

FAIRFIELD BICYCLE & PEDESTRIAN PLAN ADVISORY COMMITTEE

From: Nancy Rosett [mailto:n_rosett@yahoo.com]
Sent: Tuesday, September 20, 2016 5:03 PM
To: Sapienza, Matt <msapienza@norwalkct.org>
Subject: Fw: Two Questions

----- Forwarded Message -----

From: "Griffin, Kathleen" <KGriffin@fairfieldct.org>
To: Nancy Rosett <n_rosett@yahoo.com>
Cc: Keith Gallinelli <kgallinelli@gmail.com>
Sent: Tuesday, September 20, 2016 4:50 PM
Subject: RE: Two Questions

Hi Nancy —

I apologize for the delayed response.

The Bicycle and Pedestrian Committee was actually formed by a vote on its charge by the Board of Selectmen. The members serve at the pleasure of the Board of Selectmen. The Board can terminate the committee (i.e. disband it) at any time. Most of our permanent Boards and Commissions are formed through an Ordinance or a Charter revision. I'm not exactly sure why it was done that way for such an active and committed group but it was.

Here's a link to the minutes where the Bicycle and Pedestrian Plan Advisory Committee presented the charge to the Board of Selectmen for approval (Item #13):

http://www.fairfieldct.org/filestorage/79/125/14860/Minutes_05-21-2014_Final_.pdf

attached to this
ORDINANCE COMMITTEE
Packet

Also, here is link to the Charge that the Board of Selectmen approved that day:

http://www.fairfieldct.org/filestorage/10736/12067/18736/24910/28909/Bicycle_and_Pedestrian_Committee_Charge_-_Approved_05-21-14.pdf

attached to this
Ordinance Committee
Packet

Let me know if you have questions.

Sincerely,

Kathleen D. Griffin

Office of the First Selectman
Town of Fairfield
725 Old Post Road
Fairfield, CT 06824
203-256-3031(p)
203-256-3008(f)
kgriffin@fairfieldct.org

From: Nancy Rosett [mailto:n_rosett@yahoo.com]
Sent: Tuesday, September 20, 2016 10:20 AM

FairF-1

To: Griffin, Kathleen
Cc: Keith Gallinelli
Subject: Re: Two Questions

Hi Kathleen,

Could you clarify how Fairfield's Bicycle and Pedestrian Committee was formed? Was it by an ordinance, charter revision or ???

Thanks for your help,

Nancy Rosett
203-247-0334

From: Keith Gallinelli <kgallinelli@gmail.com>
To: Nancy Rosett <n_rosett@yahoo.com>; Kathleen Griffin <kgriffin@town.fairfield.ct.us>
Sent: Tuesday, September 13, 2016 7:31 PM
Subject: Re: Two Questions

Hello Nancy,

Thanks for reaching out. First off - I have cc'ed Kathleen Griffin on this email. She works with the First Selectman and was instrumental in helping to form our Committee. Basically, as I know, there was a group like yours here in Fairfield and they recommended as part of their master plan to have a permanent group appointed by the Selectman. And with this, our group was born. We all had to apply to the First Selectman's office, interview, be selected and then appointed at a Board of Selectman meeting. Kathleen can you provide additional info.

As for the education events we have worked with a couple of different groups over the year - the health department, the Fairfield History Museum (we did a history bike ride and walk), the police department (for a bike safety rodeo) and we are working with the Audobon and the Boy/Girl Scouts to try and do a couple of other events. We put that in our goals for the year to remind us that we are not just about infrastructure but about education. We can always do more!!

Hope this helps.

Keith

On Tue, Sep 13, 2016 at 10:07 AM, Nancy Rosett <n_rosett@yahoo.com> wrote:
Hi Keith,

I have two questions for you.

We have a couple of citizens who are interested in helping our Bike/Walk Task Force promote bicycle education in Norwalk. One of the Bicycle and Pedestrian Committee's goals for 2015 is "ongoing public communication and at least two special educational events". What did you do to accomplish that goal?

Also, we are currently an advisory group appointed by the Mayor. Before this mayor's term ends, we'd like to make the group a permanent part of government. We don't want to go out of business if

the next mayor decides he doesn't want a Bike/Walk Task Force. I see your committee is appointed by the Board of Selectmen. Was it established by an action like an ordinance of the Board of Selectmen or did it require a charter revision?

Thanks for your help,

Nancy

—
Keith F. Gallinelli 盖山顶

Director of International Admissions - Sacred Heart University

BS, MS - Geology (Chemistry), MBA

1-203-666-6071 (cell)



Chair, Town of Fairfield Bicycle and Pedestrian Committee
Science Instructor, Johns Hopkins University, CTY Program

Town of Fairfield Bicycle and Pedestrian Committee

Committee Charge

The Town of Fairfield recognizes the need to encourage walking and biking for transportation, recreation, exercise and quality of life. Walking and biking conserve energy, improve air quality, reduce traffic and the need for parking, improve health and fitness, and invigorate the local economy through increased access to local businesses and greater potential for tourism. These community-wide benefits will be achieved through institutional, planning, enforcement, education and infrastructure actions.

The Board of Selectmen shall appoint a Bicycle and Pedestrian Committee consisting of nine members to serve terms of four years; however, the initial appointees shall have staggered terms of two years (3 members), three years (3 members) and four years (3 members). No more than five members of the Committee shall be members of the same political party. The Committee shall elect a Chairperson, Vice Chairperson and Secretary. A Committee member may be removed by the Board of Selectmen for good cause upon a two-thirds vote of the Committee. Failure to attend four consecutive meetings without good reason shall constitute good cause for removal. All vacancies shall be filled by a vote of the Board of Selectmen. This Committee is established by the Board of Selectmen and can be terminated by a vote of the Board of Selectmen at any time.

The Bicycle and Pedestrian Committee shall:

- Advocate for the recommendations in the Fairfield Bicycle & Pedestrian Master Plan in collaboration with Town staff.
- Monitor transportation and other projects to ensure that they are consistent with the proposed and/or adopted Complete Streets Policy.
- Monitor and evaluate the Town's progress in the implementation of the Fairfield Bicycle & Pedestrian Master Plan.
- Convene regular meetings dedicated to the review of goals, implementation, outcomes and budgets.
- Provide an annual status report to the Board of Selectmen.
- Update the Fairfield Bicycle & Pedestrian Master Plan every five years in conjunction with updates in the Plan of Conservation and Development.

The Bicycle and Pedestrian Committee may:

- Coordinate public awareness campaigns, educational trainings and events.
- Conduct research and evaluation.
- Seek grants and accept donations from private individuals and public entities.
- Enlist staff, consultants and/or volunteers as needed to address specific tasks of the Committee.

Approved by BOS on 5/21/14

FAIRFIELD BOARD OF SELECTMAN Meeting Minutes (5/21/14)

~~and believes this important factor will be mitigated by the Committee. Selectman Kiley asked if there is noticeable deterioration of the building since it hasn't been used in a year and a half. Mr. Bradley said there has been no noticeable deterioration and the damage is not beyond repair. He said this is not an uncommon problem and typical of a repair.~~

13) FAIRFIELD BICYCLE AND PEDESTRIAN PLAN ADVISORY COMMITTEE

To hear, consider and approve a charge for the Bicycle and Pedestrian Committee
Committee member Andy Graceffa said the Committee's Charge had been extended by the Selectmen for another six months so the Committee could determine the next phase. The goal at the time the Committee came before the Selectmen was to implement their plan in the Town's Conservation and Development Plan. Mr. Graceffa named several projects the Committee has implemented including the first bike route along Mill Plain Road which the CDC is using as a case study and the purchase of bike racks downtown. Committee representatives will go before next week's Plan and Zoning Commission on bike and pedestrian zoning changes. The new charge proposes a bicycle and pedestrian standing committee. The new Charge is the work of new chair Alyssa Israel and Vice-Chair Jack Franzen and the plan will not be in the Conservation Plan of Development. There is considerable interest in people serving on the committee. Mr. Graceffa said it's a critical step to make Fairfield a bike and pedestrian friendly Town.

Selectman McCarthy Vahey is pleased to work with this Committee and thanked them for bring forward the Charge and Master Plan. She noted everyone is a pedestrian.

Selectman McCarthy Vahey made a motion to approve the item. Selectman Kiley seconded the motion.

Selectman Kiley sees the forming of a Committee as the Selectmen's continued support of the work the Committee has already done. He asked how this Committee fits into our government. Selectman Kiley asked if this is a committee or commission and if it falls under the Board of Selectmen? First Selectman Tetreau said this should be called a Committee because it's not Charter based or doesn't have a department under it. He suggests setting up a termination in 60 months. Selectman Kiley asked if this item needs RTM approval. First Selectman Tetreau said no.

First Selectman Tetreau made an amendment to remove the last sentence in paragraph two of the Charge and replace it with, "All vacancies shall be filled by a vote of the Board of Selectmen." Selectman Kiley seconded the amendment which carried 3-0.

First Selectman Tetreau asked the Board about a 60-month term. Selectman McCarthy Vahey said since this is a BOS committee the BOS can terminate or amend the charge at any time.

First Selectman Tetreau made an amendment to add a sentence as the last sentence of the Charge. The sentence says, "This Committee is established by the Board of Selectmen and can be terminated by a vote of the Board of Selectmen at any time." Selectman Kiley seconded the amendment which carried 3-0.

Selectman Kiley asked for an annual report. First Selectman Tetreau noted that is stated in the Charge.

First Selectman Tetreau asked for public comment. Judy Ewing said she is not happy with the statement on removing people from the committee because they will have good reasons for not attending meetings. She said there is a problem in getting quorums with some committees so the Chair should keep after member or ask them to resign and get a replacement.

The main motion, as amended, carried 3-0.

14) TAX COLLECTOR

To consider and act upon tax refunds as recommended by the Tax Collector in the amount recommended.

Selectman McCarthy Vahey made a motion to approve the item. Selectman Kiley seconded the motion. Selectman McCarthy Vahey made an amendment to delete the period at the end of the sentence and add a comma followed by \$72,127.88. Selectman Kiley seconded the amendment which carried 3-0. The main motion, as amended, carried 3-0.

15) To hear, consider and act upon any communications.
There was no other communications.

16) To hear, consider and act upon any other business which shall properly come before this meeting.
There was no other business.

17) ADJOURN

Selectman McCarthy Vahey made a motion to adjourn the meeting at 6:22 pm. Selectman Kiley seconded the motion which carried 3-0.

Respectfully submitted,

Jennifer S. Carpenter
Recording Secretary

Sapienza, Matt

Subject:

FW: West Hartford Bicycle Advisory Committee

WEST HARTFORD BICYCLE ADVISORY COMMITTEE

From: Nancy Rosett [mailto:n_rosett@yahoo.com]
Sent: Thursday, September 15, 2016 8:58 PM
To: Sapienza, Matt <msapienza@norwalkct.org>
Subject: Fw: West Hartford Bicycle Advisory Committee

*NOTE: on 01/24/17, the West Hartford Town Council passed a resolution replacing the Bicycle Advisory Committee with a Pedestrian & Bicycle Commission.

----- Forwarded Message -----

From: Scott Franklin <sbfr@franklinlaw.net>
To: n_rosett@yahoo.com
Sent: Thursday, September 15, 2016 1:55 PM
Subject: Re: West Hartford Bicycle Advisory Committee

Hi Nancy:

Thank you for your email. The West Hartford Bicycle Advisory Committee was created by the West Hartford Town Council to advise the Town Council on bicycle related issues.

The committee consists of 9 individuals who live in the town of West Hartford. Most of the members are avid cyclists.

We met every month on the second Monday of each month in the West Hartford Town Hall.

Since being established, we have obtained a bronze designation from the League of American Bicyclists as a bicycle friendly community, successfully put on two bike festivals known as "Wheel Fun Day", assisted in the drafting and acceptance of a Complete Streets Policy and a Bicycle Facilities Plan, organized a Center Streets event where the streets of West Hartford Center were closed to vehicles for an entire Sunday morning, implemented a "Wheels on Wednesdays" ride program, convinced the Town to install bicycle racks throughout the town, convinced the Town to start installing bike lanes and sharrows throughout the town and much more. In addition, we have started a program called "Cycling Without Age" and have purchased a rickshaw bicycle which we use to take elderly people who live in nursing homes for rides around the Town of West Hartford. The goal is for them to get "wind in their hair". The program has been incredibly successful.

We are currently attempting to convince the town to do traffic calming measures on North Main Street between West Hartford Center and Bishop's Corner, but we are running into opposition.

In addition to the West Hartford Bicycle Advisory Committee, we have formed a non-profit corporation known as Bike West Hartford, Inc. which supplements the work done by the West Hartford Bicycle Advisory Committee. Since the West Hartford Bicycle Advisory Committee isn't a legal entity, we needed to form Bike West Hartford, Inc. to put on our various events and to raise money for those events.

Please feel free to contact me if you have any further questions about our organization.

Scott

Scott B. Franklin, Esq.
Scott B. Franklin & Associates
68 South Main St.
West Hartford, CT 06107
tel. 860-561-4832
fax 860-521-5560

At Scott B. Franklin & Associates we can help you with:

Wills and Trusts (including Special Needs Trusts)

Living Wills and Powers of Attorney

Probate

Guardian Appointments

General Business Law and

Real Estate Law

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On Tue, Sep 13, 2016 at 12:39 PM, <n_rosett@yahoo.com> wrote:

Hi Franklin,

I chair the Mayor's Bike/Walk Task Force in Norwalk. We were created by the present mayor and are looking to make the group more permanent. How was your committee established? By town ordinance? By charter revision?

Thanks for your help,

Nancy Rosett
203-247-0334

Resolution adopting the WEST HARTFORD BICYCLE
ADVISORY COMMITTEE

Town Council Meeting
May 10, 2011
Agenda No. 30

Mr. Van Winkle: Our waste contract – we pick your garbage up and deliver it to the Connecticut Resource Recovery Authority who dispose of it by turning it back into energy. That waste contract is up next year and they are seeking from us an agreement to renew that with CRRA. We had been talking to others in the area. You know, we generate a lot of trash in West Hartford. There aren't a whole lot of options for us. There are some people who wrap garbage up and ship it out of state to North Carolina or Ohio and drop it in a hole that are close to competitive but energy prices make that kind of a scary proposition for us so during the month of May and June we are going to bring a resolution to the Council as to what our final disposition should be with that contract with CRRA. In all honesty there aren't a whole lot of options for us. That's not to say that there aren't options longer term for it but in the near term, given the numbers and what we're seeing from CRRA is that our cost of tipping our garbage there, the \$69 a ton that we pay, will fall substantially with this new contract and so that will be a budget saver for us but we're going to continue to look at what options we might have into the future.

President Slifka: Okay. Other questions? Okay. Thank you, Mr. Van Winkle. We will go to #7, Mr. Brennan.

ITEM #7: CONSIDERATION OF CONSENT CALENDAR: ITEMS 11 AND 17-24 TO RECEIVE.

Vice President Brennan: I move that we place Items 11 and 17-24 on the Consent Calendar.

Councilor Casperson: Second.

President Slifka: A motion is made and seconded. All those in favor? Those opposed? Motion carries. Okay, we're up to New Business, #9, Mr. Brennan.

NEW BUSINESS:

ITEM #9: RESOLUTION (CANTOR, SLIFKA, BRENNAN, CAPTAIN, CASPERSON, DAVIDOFF) ESTABLISHING THE WEST HARTFORD BICYCLE ADVISORY COMMITTEE.

ADOPTED

WHEREAS, over the past several years the Town of West Hartford has been promoting cycling for recreation and transportation within the community; and

WHEREAS, the Town has undertaken efforts including traffic-calming measures and pavement markings to encourage the safe sharing of roads by motorists and cyclists; and

WHEREAS, the Town Council desires to create the means for regular communication between cyclists and Town staff;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF WEST HARTFORD THAT an ad hoc West Hartford Bicycle Advisory Committee be established to provide regular feedback to Town staff as to how the Town can continue to be increasingly bike friendly;

AND BE IT FURTHER RESOLVED THAT the Committee shall consist of a cross-section of not less than five and not more than nine members of the Town's bicycling community, including casual and more avid cyclists who reside throughout the Town, to be appointed by the Town Council.

Vice President Brennan: I move that we adopt.

Councilor Casperson: Second.

President Slifka: A motion is made and seconded. This is... Again this is an item that was really Mrs. Cantor's doing and I regret she couldn't be here to describe it. It's a brief resolution so let me just read it and as I do that, Mary Ellen Thibodeau is here. Mary Ellen, do you want to come up and address the item while I start to read it? Mary Ellen is one of the avid cyclists in town who stepped up and has been an activist on this and really brought this to our attention and the genesis of this has been a lot of the work that was done by another committee over the last couple of years chaired by Jamie Sullivan and our former Deputy Mayor Chuck Coursey was the Council Liaison to that. Now Mary Ellen is picking up the baton, so to speak, and we had a series of bike rides with her a couple months back before the winter and were educated on... Although West Hartford aspires to be extremely bike-friendly the reality is that we're kind of a congested city in that respect and we're not particularly bike friendly and there are small ways that cost little to nothing where we can improve bike safety and really make this a better link between Hartford, which is actually more bike-friendly, and some of the communities further west and elsewhere and really link them up but before I get to Mary Ellen let me just read this. It's a resolution establishing the West Hartford Bicycle Advisory Committee. Whereas over the past several years the Town of West Hartford has been promoting cycling for recreation and transportation within the community, and whereas the town has undertaken efforts including traffic calming measures and pavement markings to encourage the safe sharing of roads by motorists and cyclists, whereas the Town Council desires to create the means for regular communication between cyclists and town staff, now therefore be it resolved by the Town Council of West Hartford that an ad hoc West Hartford Bicycle Advisory Committee be established to provide regular feedback to town staff as to how the town can continue to be increasingly bike-friendly and be it further resolved that the committee shall consist of a cross-section of not less than five and not more than nine members of the town's bicycling community including casual and more avid cyclists who reside throughout the town to be appointed by the Town Council. That kind of speaks for itself. Mary Ellen, would you like to add anything to that?

Ms. Thibodeau: Thank you.

President Slifka: Oh, hit the button on the mic.

Ms. Thibodeau: Okay. Thank you, Mayor Slifka. I just wanted to say that yes, there was a lot of work done in 2007 by the Bicycle Advisory Task Force. They produced a really impressive report. I was reviewing it today and there are a lot of really good ideas in here. I think the Town Council adopted it and it was made part of the Plan of Conservation and Development but one of the recommendations made by the Task Force was to create a Bicycle Advisory Committee and that's really what we're here to do and we're looking forward. There are eight of us now that have come forward and said we'd really like to help the town and the staff and make this a much better place to bike and we're looking forward to working with people to offer ideas.

President Slifka: And we're looking forward to it as well. I know I want to thank Mrs. Cantor but I know she would want to extend her thanks to you. I saw her earlier this evening. Explain to folks that... You know, when you go on one of these rides they really are educational because you find these little parts of town where it might be a small intersection, it might be a place you drive by every day and you completely overlook it and it looks fine as you go by and it may look fine from a road design standpoint but when you actually try to cross that street, whether you're on foot or you're on a bike it can be particularly treacherous and what we are trying to establish with this committee is a group that will keep their eyes on that for us, advise us on a regular basis and give us ways that we might just be able to incorporate into our ongoing Capital Improvement Plan little tweaks to what we're going to do with our roads to make them that much safer and I, you know, I have been a biker, much less of a cyclist since my daughter was born a couple years ago but I thought I understood it. I did not understand it as fully as I do now having gone on these two rides. We covered almost all of the town and you learn that... I think the one that stuck with me the most was when Tracy Wilson took us over by Conard High and she explained how, you know, there's all these areas around Conard. They're very easy to ride but she rides there every day. She teaches but there is this one key intersection that I drive by all the time right by Rockledge and you'd think it's no problem and she showed us that you could sit there for an incredibly long period of time waiting and waiting and waiting for an opportune time to cross because it's not at a crosswalk, there are no lights, there are no signals and that ends up creating for a biker, and something we're trying to encourage, the need to detour severely around either side of town just to get to this midpoint kind of near West Hartford Center so that's the kind of thing we can learn and we're looking forward to more of that. Thank you, Mary Ellen. Would anybody else like to comment on this? Yeah, go ahead, Denise.

Councilor Hall: Thank you. I think it's a great idea. I was just curious as to whether it couldn't be expanded to something beyond just bicyclists. I know we've been talking in regard to sort of the use of our streets through the different groups that like to do the walk-a-thons and the bike-a-thons and the marathons and it just seemed like this group might have an in-depth knowledge about that and could we maybe expand it to be the group that helps us analyze, you know, how many of those types of events do we permit and, you know, where should they go and where's the safe place to go? I was just thinking that I know there's a lot of demand these days because West Hartford's gotten

so popular and we get so many different groups that want to use the streets for their different fundraising activities and sort of building that body of knowledge of where it's appropriate and where it would be inappropriate or working with the businesses to make sure it's not affecting them unduly. It might be a good fit.

President Slifka: We could certainly take a look at that. I think as Mary Ellen had mentioned we're trying for these purpose to establish the committee that came out of the report so we at least have this on paper. I know that there are other committees that we already have that are working on some aspects of that. In fact, the Advisory Commission on Persons with Disabilities, I know because my brother is on the little subcommittee that's going around town with disabled people and advising Dave Kraus, our Town Engineer, about, you know, lengthening the walk times at certain spots and things like that and I'm certain that... This was a very good idea and I'm certain it is something we can work into the work of one or more of these groups. Mr. Doar, go ahead.

Councilor Doar: I just want to say I think it's a good idea as well but I wasn't aware of the 2007 report. The Town Manager will get us a copy of that report. Clearly in that report it indicates that this is one of the action items from that report but certainly your idea I think makes a lot of sense.

President Slifka: Mr. Adler?

Councilor Adler: Thank you, Mr. Mayor. Mary Ellen? Where'd she go? Oh, hi. No, that's all right. You don't have to... I think one of the things that, you know, particularly with energy being a challenge these days, you know, we're seeing more and more people commute to work and I'm at the bus stop with my wife on Fern every morning and I'm probably seeing more and more people bike to work which is...that's just a reality of the world we're living in plus, you know, living on the outer hub of Hartford it's just a, you know, it's just a mode of transportation. One of the things I'd like to see, you know, from the task force or the bike group is taking a look at, you know, areas like Bishops Corner because I think Bishops Corner, although I think when we had the most recent SDD on the redevelopment there one of the exciting things is right turns out of certain parking lots so I think that's a plus but the point I wanted to make was Bishops Corner is a problem waiting to happen and I'd really like to hear your thoughts about it and your ideas and I think there's some service roads there that really need to be leveraged a little bit better in terms of signage and kind of changing some of the behaviors as how people get through Bishops Corner so I see some of the heads nodding over there so if you can do that that would be great. I appreciate that.

President Slifka: Thank you, Mr. Adler. Mr. Davidoff?

Councilor Davidoff: Thank you, Mr. Mayor. I'd like to extend a congratulation to Mrs. Cantor for putting this on our radar screen. So often we go through a lot of the studies and they just basically sit our a dusty shelf somewhere waiting for some action steps to take place and so this is something that has gotten dusted off and is becoming quite active and I'd like to thank Mary Ellen and the other people who have already volunteered and

stepped up to the plate so show us why West Hartford is the great community to live in and bicycling and being a bicyclist is a good thing and something that we should be promoting as a community and it's another aspect of our community life that we should all be proud in so I want to thank her for her efforts this evening in terms of volunteerism and I'd also like to thank our colleague Mrs. Cantor for putting it back on our radar screen. Thank you.

President Slifka: Thank you, Mr. Davidoff. Before we vote I do want to... On behalf of Mary Ellen and the Advisory Committee and Bike Walk Connecticut, the umbrella organization that they work with, invite everybody both in the public and at this table to the Bike Rally at Blue Back. This is on National Bike Day, May 20, 2011 so not this Friday but the following Friday. It's a little early. It starts at 6:30 A.M. to 7:30 A.M. but cyclists from West Hartford and surrounding towns are invited to join in the festivities by biking to Blue Back Square on their way to work, school or wherever they need to go. There will be celebrity speakers, breakfast snacks and prizes and at the conclusion of the Blue Back Square Celebration cyclists will be invited to join Bike Walk Connecticut's ride to the Capitol to deliver greetings to Governor Malloy so anybody that can make that and you're an early riser please try to get there. Anything further? With that... No? All those in favor? Those opposed? Motion carries. Okay. We're up to #10, Mr. Brennan.

ITEM #10: RESOLUTION (VAN WINKLE) AMENDING THE FEES FOR WEST HARTFORD RECREATIONAL FACILITIES.

ADOPTED

See Attachment A

Vice President Brennan: I move that we adopt.

Councilor Casperson: Second.

President Slifka: A motion has been made and seconded. I know this has gone through the Human Services Committee. Mr. Van Winkle or Mrs. Casperson, if you could perhaps enlighten us?

Mr. Van Winkle: This is a resolution to amend some fees. We take a look at our fees for our Leisure Services facilities around town at this time during the budget process and these are fairly modest increases at the winter rental rates and a couple of other relatively minor evening swims per session going up 25 cents. It's not intended to raise a huge amount of money. It is intended to keep our fees in line with what we see fees being charged in other areas and making sure that we don't have to come in rather than raising them by 25 cents raising them by 2 dollars one year because we didn't raise them over a period of time so this is a modest change to our rates. It's something that we need to continue to look at. This has been a very tight budget. We've talked a lot about our facilities and how they operate and it's something that this year as we held for our next budget administrative staff working with the Human Services Committee will be taking a

> > > Committee

Bicycle & Pedestrian Committee



Contact Information

Bicycle & Pedestrian Committee
c/o First Selectman's Office
725 Old Post Road
Fairfield, CT 06824

203-256-3030

bikepedcommittee@fairfieldct.org

Board Links

- [About the Committee](#)
- [Agendas](#)
- [Files & Documents](#)
- [Members](#)
- [Minutes](#)

Additional Links

- [Conservation Department](#)
- [Town Plan & Zoning Commission](#)

Function

The Fairfield Bicycle & Pedestrian Committee is charged with implementing the Town of Fairfield's [Bicycle and Pedestrian Master Plan](#). View the committee's [Vision and Goals for 2015](#).

Meetings

The Bicycle & Pedestrian Committee generally meets the third Thursday of the month at 6:00 pm in the first floor conference room of Sullivan Independence Hall, 725 Old Post Road. All schedules and locations are subject to change. Please check the [Town Meetings Calendar](#) for cancellations or location changes.



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WH-3

BIKE AND PEDESTRIAN COMMITTEE VISION AND OBJECTIVES

FOR YEAR ENDING DEC. 31, 2015

Revised Jan. 17, 2015

Our Vision (from Fairfield Bicycle & Pedestrian Master Plan 6.19.2013)

The Town of Fairfield recognizes the need to encourage walking and biking for transportation, recreation, exercise and quality of life. Walking and biking conserve energy, improve air quality, reduce traffic and the need for parking, improve health and fitness, and invigorate the local economy through increased access to local businesses and greater potential for tourism. These community-wide benefits will be achieved through institutional, planning, enforcement, education and infrastructure actions.

2015 Objectives

1. Add at least two new, well-marked **bicycling routes** to safely link Fairfield residential neighborhoods to town business centers and other destinations.
2. Through ongoing public communication and at least **two special educational events**, become one of Fairfield's respected advocates and resources for cycling and pedestrian safety information.
3. Originate, coordinate and share information and resources effectively with all **town, state, federal and organizational agencies** in order to help Fairfield implement the "immediate actions" priority section in the town's Bicycle and Pedestrian Master Plan as endorsed by the Board of Selectmen.
4. In support of the Bicycle and Pedestrian Master plan, take a leadership role helping Fairfield town government to **work toward a Complete Streets Policy**, identifying and creating at least one major thoroughfare each year that meet the needs of *all users* including bicyclists, pedestrians and transit users as well as automobile drivers.

RESOLUTION establishing the West Hartford Pedestrian
& Bicycle Commission
(Prior to this, it was an advisory
Committee)

Town Council Meeting
January 24, 2017
Agenda No. 24

Vice President Davidoff: Thank you, Madam Mayor. I move adoption...Madam Mayor, I move adoption of Resolution to Accept and Appropriate a Donation of \$2,750 from West Hartford Little League.

Councilor Kerrigan: Second.

President Cantor: Motion's made and seconded. All those in favor?

Councilors: Aye.

President Cantor: Oh, I, you didn't talk about it, but I think we know. Okay. It's self-explanatory. All those opposed? Motion carries. Number 11, Mr. Davidoff.

**ITEM #11 - RESOLUTION ESTABLISHING THE WEST HARTFORD PEDESTRIAN
AND BICYCLE COMMISSION**

ADOPTED, 8-0

WHEREAS, on May 10, 2011, the West Hartford Town Council established the ad hoc West Hartford Bicycle Advisory Committee;

WHEREAS, the ad hoc West Hartford Bicycle Advisory Committee has not only assisted the Town of West Hartford in becoming bicycle friendly, but also in building the framework for a bicycle transportation system with appropriate bicycle amenities throughout the Town of West Hartford;

WHEREAS, the ad hoc West Hartford Bicycle Advisory Committee through its countless volunteer hours and efforts has aided West Hartford in having numerous bicycle related events and activities and in causing the League of American Bicyclists to award West Hartford the Bronze medal award;

WHEREAS, ad hoc committees must come to an end when their tasks or duties have been completed, but West Hartford continues to believe that more can be done to help West Hartford improve its public facilities for bicyclists and pedestrians.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF WEST HARTFORD that the Town Council shall establish the West Hartford Pedestrian and Bicycle Commission to promote bicycle and pedestrian safety through education and advocacy and to recommend facility and rights-of-way improvements;

BE IT FURTHER RESOLVED by the Town Council that the West Hartford Pedestrian and Bicycle Commission shall consist of nine (9) members who are West Hartford residents, who shall serve without compensation, and who shall be appointed by the Town Council;

AND BE IT FURTHER RESOLVED by the Town Council that each member of the West Hartford Pedestrian and Bicycle Commission shall serve no more than two terms, the terms shall not be longer than five years; of the members first appointed, three members shall serve two years, three members shall serve three years, and three members shall serve a full five-year term with all successive terms for all members being five years;

FINALLY, BE IT FURTHER RESOLVED that this commission and its members shall be required to comply with C.G.S. § 1-200, et seq., as well as the West Hartford Code, including but not limited to Chapter 5.

Vice President Davidoff: Thank you, Madam Mayor. I move a Resolution to adopt Establishing the West Hartford Pedestrian and Bicycle Commission.

Councilor Kerrigan: Second.

President Cantor: Motion's been made and seconded. Mr. Alair, do you want to just address this? No, you don't. Okay. I, I can just summarize it. It was just actually because it came from Garmon, but that's okay.

Mr. Alair: Oh, okay.

President Cantor: It is just a, the Bicycle Task, well, the Bicycle Advisory Committee was set up as an ad hoc Commission and we had switched an ad hoc Commission, our Energy Commission to be a, an ongoing Commission with term limits and following all the rules of an ongoing Commission and so, again, self-explanatory. We, we switched them from an ad hoc to an ongoing Commission with staggered terms appointed by, with minority representation and appointments. Okay. Any questions. Okay. All those in favor?

Councilors: Aye.

President Cantor: All those opposed? Motion carries. And number 12, Mr. Davidoff.

ITEM #12 - RESOLUTION AMENDING THE FEES FOR VARIOUS RECREATION FACILITIES

ADOPTED, 8-0

BE IT RESOLVED by the Town Council of West Hartford that the following schedule of Fees and Charges at the Elmwood Community Center are hereby amended, such schedule to supersede all existing and prior resolutions relating to such fees and charges; and

BE IT FURTHER RESOLVED that all fee changes are effective March 1, 2017.

ELMWOOD COMMUNITY CENTER

CURRENT FEES – EFFECTIVE MARCH 1, 2014

<u>GYMNASIUM RENTAL (custodial included)</u>	<u>CURRENT</u>	<u>PROPOSED</u>
Non-profit community organizations per hour & 75% of Resident Groups.....	55.00	N/A
Resident group per hour Monday through Friday.....	N/A	55.00
Resident group per hour Weekends.....	N/A	75.00
Other organizations per hour & less than 75% Resident Groups.....	75.00	N/A
Non-Resident group per hour Monday through Friday.....	N/A	80.00
Non-Resident group per hour Weekends.....	N/A	100.00
Custodial expenses.....	Out-of-pocket	N/A

AUDITORIUM RENTAL with Kitchen (custodial included)

Non-profit community organizations per hour	61.00	N/A
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