

# Town of Brandon Noise Ordinance

Authority under Title 24

vsa 1971(a)

2291(14)

2291(15)

# VT Statutes vs. Town Ordinance

- T13 vsa 1026 Disorderly conduct
- (a) A person is guilty of disorderly conduct if he or she, with intent to cause public inconvenience or annoyance, or recklessly creates a risk thereof:
  - (1) engages in fighting or in violent, tumultuous, or threatening behavior;
  - (2) **makes unreasonable noise;**
  - (3) in a public place, uses abusive or obscene language;
  - (4) without lawful authority, disturbs any lawful assembly or meeting of persons; or
  - (5) obstructs vehicular or pedestrian traffic.
- (b) A person who is convicted of disorderly conduct shall be imprisoned for not more than 60 days or fined not more than \$500.00, or both. A person who is convicted of a second or subsequent offense under this section shall be imprisoned for not more than 120 days or fined not more than \$1,000.00, or both. (Amended 1971, No. 222 (Adj. Sess.), § 5, eff. April 5, 1972; 2013, No. 150 (Adj. Sess.), § 3.)

# VT Statutes continued

- Noise in the Nighttime
- Title 13 vsa 1022
- A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns, or other unnecessary and offensive noise shall be fined not more than \$50.00. However, this section shall not prevent a person employing workers, for the purpose of giving notice to his or her employees, from ringing bells or using whistles or gongs of such size and weight, in such manner, and at such hours as the select board members of the town, the aldermen of the city, or the trustees of the village may prescribe in writing.

# VT Statutes continued

- Safety Zone; Shooting Prohibited
- Title 10 vsa 4710
- (a) A person may on land owned or occupied by him or her and within 500 feet of any occupied dwelling house, residence, or other building or camp occupied by human beings, or any barn, stable, or other building used in connection therewith, maintain posters furnished by the Department of Fish and Wildlife not less than 12 inches wide and 18 inches high containing the words "safety zone, shooting prohibited." An area bounded by such posters placed at each corner, and not more than 200 feet apart on the boundaries shall be considered enclosed land for the purpose of this section and is hereby defined as a "safety zone." Without advance permission of the owner or occupant, a person shall not discharge a firearm within or take a wild animal that is within a "safety zone" as defined herein.
- (b) Any person who violates a provision of this section shall be fined \$50.00. (Added 1967, No. 40, §§ 1, 2, eff. March 16, 1967; amended 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1991, No. 13, § 5.)
- Typically enforced by Fish & Wildlife

# Concerns and Issues

- Enforcing the statute results in a criminal arrest of the offender.
- Law enforcement must witness the violation in order to arrest
- If not witnessed, court action can still take place with a written sworn statement from the witness.
- Prosecutor must be willing to prosecute
- Judge must find probable cause
- Fines are typically minimal if not suspended, and go to the state
- Potential of witness to have to testify in a court hearing

# Town ordinance

- Pros: Offender can be written a civil complaint if witnessed
- Offender can be written a civil complaint if unwitnessed by law enforcement, providing a witness provides a statement
- Conviction of civil violation results in no criminal arrest record
- Fine can be reasonable with an increase for continued infractions
- No court appearance required by the accused if not contested

# Town Ordinance continued

- Cons: Offender can contest ticket and take it to court, resulting in officer testifying and appearing in court. ( a cost to the town of more than the ticket )
- If offense unwitnessed by law enforcement, but written based on witness statement, witness and law enforcement will have to testify and appear in court
- Police will receive more complaints related to noise from the public, and be expected to enforce the ordinance as written
- If the ticket is not paid, there is no negative impact to the offender unless specifically addressed in the ordinance

# Town Ordinance continued

- Cons:
- Minor disputes will result in people wanting police to resolve neighbor issues
- Ordinance must be legally adopted and meet judicial bureau standards

# Concerns

- Definitions must be clearly defined
- Continual or subsequent offenses must be addressed
- Discretion- left to police to decide appropriate action, or strict guidance by ordinance?
- Are we infringing on property rights of all owners based on a vocal minority of complaints?
- Are we allowing Brandon to be depicted as uncaring and unwelcoming as has been suggested, or are we respecting people's rights?
- If you determine decibel levels will be used to constitute violations, equipment will be required, and should be utilized at the location of the complainant, not where the noise originates from.
- If a minor is the cause of the violation, specific language to address intent, and responsibility for a minor must be addressed.
- Tenants, and / or landlords of property must also be addressed.

# Final Thoughts

- Brandon PD is your avenue to address these concerns, but not to author or decide if an ordinance is needed
- Public hearings were held by the select board for input from the community, to determine if an ordinance is needed.
- The police department is happy to engage in those conversations once you have determined if an ordinance is needed, and if not, what we have done thus far to address concerns
- Needed discussion on what the select board and public expect for enforcement if an ordinance is enacted
- Perhaps an online public survey by only Brandon residents (survey monkey) to get a real representation of public input (for those who do not like to voice opinions in public)
- All other towns who were listed as having ordinances (links provided) were contacted by me, almost no enforcement action is taken, and voluntary compliance has worked with police involvement.
- More discussion is needed where citizens can ask questions specific to how violations are handled.
- I would urge the select board not to rush their decision, and be as thoughtful and thorough as possible when crafting