

**MINUTES
TOWN COUNCIL MEETING
STANDISH, MAINE
TUESDAY, FEBRUARY 14, 2023
STANDISH MUNICIPAL CENTER
5:00 PM**

CALL TO ORDER

Vice-Chair LeClerc called the meeting to order and led the Pledge of Allegiance.

ROLL CALL

Councilors present: Leclerc, Libby, Macri, Paul and Watson.
Councilors Gaba and Butler were excused.

EXECUTIVE SESSION

Moved by Leclerc, seconded by Libby and voted to move into an executive session with the Town Attorney regarding a real estate matter pursuant to 1 M.R.S.A. §405 (6) (C). Vice-Chair LeClerc announced that Town Attorney, Sally Daggett and Town Manager, Tasha Pinkham will join the Town Council in the executive session and the regular Town Council meeting will start at the adjournment of the executive session.

Moved Leclerc, seconded by Libby and voted to arise from the Executive Session. The Council arose from the Executive Session at 6:00 p.m. and moved into the regular meeting. Councilor Butler joined the Town Council meeting at this time.

MINUTES OF PREVIOUS MEETING (S)

Moved by LeClerc, seconded by Watson and voted to approve of the minutes from the January 10, 2023 Town Council meeting (Unanimous)

PETITIONS AND COMMUNICATIONS

The Clerk announced that a letter from Attorney Benjamin Plante of the law firm of Drummond Woodsum was received today via email regarding the amendment to the Noise Ordinance that is on tonight's agenda. Moved by Libby, seconded by LeClerc and voted to incorporate the letter into the minutes. The letter can be found at the end of these minutes.

REPORT OF THE TOWN MANAGER

Vice-Chair noted that Mrs. Pinkham was not at this portion of the meeting and the Clerk will read the managers' report after an update from the Fire Chief.

Chief Caron explained that he had a few items to report, noting that through a recent ISO rating inspection, the first done since 2012, finds that the town's fire department's rating numbers have decreased. He noted that the lower the number better, he said that the lower the ISO rating is, the better that the resident's homeowner's insurance premiums are.

He provided the following department statistics for 2022:

- Emergency incidents – 2,378
- Mutual aid to other towns – 477; Mutual aid from other towns - 287
- Response time from dispatch to out the door – was an average of 1 minute 50 seconds

- Busiest hours of the day - between noon and 1:00 p.m.
- Busiest Day – Friday
- 661 were overlapping calls
- Standish is the third busiest town dispatched by Cumberland County
- The mechanical CPR device has been used twice since it was purchased

The Town Clerk read Mrs. Pinkham's Manager's Report.

- **Assessing Department**

Working on property letters for Brookfield Dam with Hollis.

- **Code Enforcement Department**

Kailey Drive receiving occupancy permits. Blasting in Hunters Haven.

- **Parks & Recreation Department**

In need of staff for aftercare program. Recently met with BEHS and St Joes to meet childcare and behavior needs of some families.

- **Planning Department**

Working with committee to help review CDBG grants, did put in one for Recreation. Working on noise ordinance and shooting range.

- **Public Works Department**

Holiday decorations are almost all put away, just the wreath by Hannaford and waiting for bucket and truck to assist. School zone lights hope to set up Thursday - have been waiting for warmer weather for cement to set. They will be posting roads on February 15. They are working on equipment and with DEP to monitor and PFAS.

- **Finance Department**

Met with all departments at least once to develop budget.

- **Generals Assistance**

Managing GA requests and new fuel assistance fund, we still have money. Overseeing that employees complete yearly training and finishing up interview process for public works.

- **Clerks Department**

Nomination papers for MSAD 6 Board of Directors – Scheduled to be delivered from SAD6 on 2/6/23 or 2/7/23 – one seat At- Large available.

Standish Elected Boards/Committees:

Nomination papers for town seats – available beginning March 6, 2023:

Budget Committee – 3 At-large seats – (2 seats with 3-year terms; 1 with a 1-year term)

Town Council – 3 Seats – (Area 4, Area 2, and a At-Large seat – All have 3-year terms)

Planning Board- 3 Seats – (Area 3, Area 1, and a At-Large seat – all have 3-year terms)

PUBLIC HEARINGS

5-23 Annual Recommendation to Adopt 10-Year Capital Plan [Paul]

Councilor Paul explained that this is an annual order that has been reviewed by the Town Council.

Finance Director, Scott Gesualdi said that this is a vision of the next ten years where the town is going with capital improvements. He noted that there are funds are in the FY 24 budget for the Comprehensive Plan and Route 35/114 intersection improvements.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he closed the hearing and called for the roll call vote.

WHEREAS the Standish Charter requires annual presentation, revision and adoption of a Capital Plan for the Town of Standish, now be it

ORDERED that the attached 10-year Capital Plan is hereby adopted.

Capital Expenditure Title	Reserve Funds	Year	Life Cycle	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	10 Year Totals
General Administration														
GA-01 Revision/Update														
GA-02 CEO 4WD Vehicle		2018	10											
GA-03 Government Access	2,395													
GA-04 Munc Server														
GA-05 Vision Server Conversion					25,000			25,000			25,000			75,000
GA-06 Electric Message Board														
GA-07 Open Space/Mixed Use Land Opportunity														
GA-08 Town Hall Roof Repair						25,000						25,000		50,000
GA-09 Town Hall Clerk's office renovation														
GA-10 Network Infrastructure upgrade														
GA-11 HVAC/Insulation upgrade					50,000									50,000
GA-12 Pantry Truck/Trailer Mutch														
GA-13 Comp Plan Phase 1 of 2							50,000	50,000						100,000
GA-14 Traffic Engineering/Design														
GA-15 Assessing Used Ford Ranger		2007	10											
GA-16 Planning Plotter/Scanner														
GA-17 File Server						20,000			20,000			20,000		60,000
Subtotal	2,395			100,000	75,000	45,000	50,000	75,000	20,000		25,000	45,000		435,000
Public Safety														
PS-01 Rescue 1 (Ford)		2016	5											
PS-02 Rescue 2 (Chevrolet)		2012	5											
PS-03 Rescue 3		2019	5			350,000		375,000						725,000
PS-04 Tank 12 (Freightliner)		2021	25											
PS-05 Engine 1 (E-One)		2011	15				850,000							850,000
PS-06 Engine 4 (Ford E-One)		2005	20		850,000									850,000
PS-08 Tower 1 (E-One)		2014	20											
PS-09 Unit 2 (Tahoe)		2001	25							1,400,000				1,400,000
PS-10 Unit 3 (Ford Explorer)		2018	10					45,000						45,000
PS-11 Unit 7 (Chevy P/U)		2021	10											
PS-12 Tank 3 (Renworth/Centrol S)		2015	10					35,000						35,000
PS-13 Forestry 3 (Army 616)		1995	20											
PS-14 Utility 5 (Ford)		1991	20											
PS-15 Marine 6 Boat w/trailer		2018	20											
PS-16 Squad 6 (Ford)		2003									100,000			100,000
PS-17 Trail 1		2005			60,000									60,000
PS-18 Traffic 8 (GMC Cargo Van)		2007												
PS-19 ACO Vehicle (Chevy Express)		2010	10						35,000					35,000
PS-20 Gear washer/dryer								40,000						40,000
PS-21 Cardiac monitors								30,000						30,000
PS-24 Jaws of Life		2015	12					100,000						100,000
PS-27 Thermal Image Cameras					150,000									150,000
PS-28 Dry Hydrants		2012	10		100,000									100,000
PS-29 SCBA						50,000	50,000							100,000
PS-34 Mechanical COP Device		2020	10							300,000				300,000
PS-35 Stretchers							150,000							150,000
Subtotal				350,000	900,000	550,000	850,000	625,000	35,000	300,000	1,400,000	100,000		5,110,000
Parks & Recreation *														
PR-01 Memorial Park														
PR-02 Tennis Courts *** (LWOP)														
PR-03 Joe State Park	2,207													
PR-04 Playground 3/1P														
PR-05 Indoor Rec Facility	23,671						50,000							50,000
PR-06 Multi-passenger Bus		2018	15											
PR-07 Multi-passenger Van		2019	15						40,000		60,000			100,000
PR-08 Rick Memorial Beach		2018												
PR-09 Mt. Division Trail Ext.		2018												
PR-10 Subcompact Tractor														
PR-11 Mower						30,000								30,000
PR-12 2019 Ford F350 pickup		2019	10						50,000					50,000
PR-13 Storage shed/garage														
PR-14 Ford F350 pickup plow package														
PR-15 Mills Street Park grant														
Subtotal	25,878			150,000		30,000	50,000	50,000	40,000		60,000			380,000

Capital Expenditure Title	Reserve Fund	Year	Life Cycle	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	10 Year Totals
Public Works														
PW-01 Truck: 1 w/ plow gear		2011	12											
PW-02 Truck: 2 Wheeler w/ plow gear		2007	15		310,000									310,000
PW-03 Truck: 3 w/ plow gear		2011	12				260,000							260,000
PW-04 Truck: 4 w/ plow gear		2004	12	250,000										250,000
PW-05 Truck: 5 Wheeler w/ plow gear		2023	15											
PW-06 Truck: 6 w/ plow gear		2019	15							65,000				65,000
PW-07 Truck: 7 w/ plow gear		2013	10					60,000						60,000
PW-08 Truck: 8 w/ plow gear		2009	12			260,000								260,000
PW-09 Truck: 9 Wheeler w/ plow gear		2004	15				310,000							310,000
PW-10 Truck: 10 Wheeler w/ plow gear		2015	15						310,000					310,000
PW-11 Truck: 11 w/ plow gear		2019	15											
PW-12 Truck: 12 w/ plow gear		2022	15										260,000	260,000
PW-14 Truck: 14 Aerial Bucket Truck		2022	20											
PW-15 Truck: 15 Wheeler w/ plow gear		2023	15											
PW-16 Sander T - 1 Fisher Poly		2011	15											
PW-17 Sander T - 3 Starless		1994	20											
PW-18 Sander T - 4 Starless		1994	20											
PW-19 Sander T - 5 Starless		2023	20											
PW-20 Sander T - 6 Fisher Poly		2019	15											
PW-21 Sander T - 7 Fisher Poly		2009	15											
PW-22 Sander T - 9 Starless		2004	20											
PW-23 Sander T - 11 Starless		1994	20											
PW-24 Sander T - 15 Starless		2023	20											
PW-25 Excavator -- used		1995	10											
PW-26 Excavator		2021	15											
PW-27 Roadside Boom Mower		2005	15											
PW-28 Chipper		1991	30							100,000				100,000
PW-29 20 Ton Low Bed Trailer		1995	15											
PW-30 Highway Grader		1998	20				40,000							40,000
PW-31 4 - VIO Loader/Backhoe		2004	15					150,000						150,000
PW-32 4 - VIO Loader		1993	15				95,000							95,000
PW-33 4 - VIO Loader		2011	15									95,000		95,000
PW-34 (2) Roll Off Containers		2023	10											
PW-35 Street Sweeper		2001	20		200,000									200,000
PW-36 4 - VIO Loader/Backhoe														
PW-37 Sand Storage Bunker														
PW-38 Asphalt Hot Box														
PW-39 LED Lighting Transfer Station					95,000									95,000
PW-40 River Road Culvert				650,000										650,000
PW-41 Moody Road Culvert														
PW-42 Public Works Garage							8,000,000							8,000,000
PW-43 Rehabilitate Roads ***														
PW-44 35/114 Intersection				2,100,000										2,100,000
PW-45 Pavement Maintenance ***					859,787	695,055	687,900	715,685	644,388	682,875	679,025	579,270	884,300	6,428,185
PW-46 Planning/Engineering P.W. Facility				60,000										60,000
PW-47 Garage Aerial Lifts				68,000										68,000
Subtotal				3,138,000	1,369,787	930,055	9,392,900	925,685	954,288	747,875	779,025	674,270	1,144,300	20,116,385
Total	37,323			3,738,000	2,344,787	1,615,055	10,342,900	1,675,685	1,049,288	1,047,875	2,264,025	819,270	1,144,300	26,041,185

** Refer to the Ten Year Road Improvement Plan for specifics
 *** Will apply for LWOP grant money

VOTE: 6 YEAS

6-23 Application Submitted by Mili, Inc. dba Standish House of Pizza located at 35 Ossipee Trail West for renewal of a Malt Liquor (Beer) and Wine Restaurant License (Class I, II, III, IV) [Gaba]

Vice-Chair LeClerc said that this is a straightforward renewal of this application.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he closed the hearing and called for the roll call vote.

ORDERED that the application submitted by Mili, Inc. dba Standish House of Pizza located at 35 Ossipee Trail West for renewal Malt Liquor store (Beer) and Wine Restaurant License (Class I, II, III, IV) is approved by Council, to expire as determined by the Department of Public Safety.

VOTE: 6 YEAS

COMMITTEE REPORTS

Councilor Paul – Capital Improvements Committee – Did not meet.

Councilor Macri – Appointments Committee – Did not meet, however there is an agenda item tonight.

Councilor Libby – Finance Committee – Met yesterday, he announced that finances are right on target.

Councilor LeClerc – Ordinance Committee – Met and discussed the gun range issue, they've bifurcated the indoor/outdoor range concepts; they discussed the sound ordinance.

Councilor Watson – Personnel Committee – Has met several times. He noted that he recently job shadowed the Clerk's Office and other departments.

Councilor Butler – Economic Development Committee - Will meet tomorrow and continue the discussion regarding the TIF application, which will require Town Council approval. Recreation Director, Jen DeRice will join their meeting to discuss how recreation can help the economic development.

CONSENT CALENDAR

There were no Consent Calendar items on this agenda.

UNFINISHED BUSINESS

44-22 Amendments to Standish Town Code, Chapter 206, Noise, Multiple Sections (*Sent back to Ordinance Committee May 10, 2022*) [LeClerc]

Vice-Chair Leclerc noted that this is an update to the general noise ordinance. He referred to the correspondence that was presented earlier in the meeting regarding this matter. He noted that he had concerns as well.

Councilor Libby noted that this has not yet been brought back on the table.

Vice-Chair LeClerc asked if there was a motion to take this off the table?

Councilor Butler recommended that this remains in committee until our legal counsel has had an opportunity to review the correspondence received from Drummond Woodsum. He noted that he would like to receive more input from legal counsel before moving on this item.

Councilor Libby explained if there is no vote to take this out of committee, it will remain in committee.

Councilor Macri asked what were the recommendations from law enforcement?

Councilor Butler said that law enforcement suggested that a duration of time is included in the ordinance of 30-minutes. In addition, they suggested that wording regarding the property line of the complaint is included in the ordinance.

Vice-Chair Leclerc noted that the Ordinance Committee is simultaneously working on a noise ordinance that is related solely to gun ranges, so, this may be a bit confusing relating to the exception in this amendment.

The Director of Planning, Zachary Mosher, asked what they were considering changing in this order?

Vice-Chair Leclerc suggested that staff contact legal counsel to see if the exemption is too broad, especially due to the conflicting information received today.

NEW BUSINESS

7-23 Change the date of the Regular Town Council Meeting in March to March 7, 2023 [Gaba]

Vice-Chair Leclerc said this is needed to allow ample time for the budget process.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he called for the roll call vote.

WHEREAS the regular meeting of the Standish Town Council in March is scheduled to be held on March 14, 2023, and

WHEREAS the Town's budget process will begin with the public hearing being held on March 7, and

WHEREAS the Council *Rules of Procedure* allow for the date of the meeting to be changed upon vote of the Council, now be it

ORDERED that the regular meeting of the Standish Town Council be changed to Tuesday, March 7, 2023 be held at Council Chambers at the Standish Municipal Center beginning at 6:00 p.m.

VOTE: 6 YEAS

8-23 Call for a Public Hearing for the FY 2024 Municipal Budget to be held at the March 7, 2023 Town Council Meeting [Gaba]

Vice-Chair Leclerc said this hearing is part of the budget process.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he called for the roll call vote.

ORDERED that a Public Hearing will be held on Tuesday, March 7, 2023 at the Standish Municipal Center, 175 Northeast Road, Standish, Maine during the regularly scheduled meeting of the Standish Town Council which starts at 6:00 pm, for the purpose of soliciting discussion of the fiscal year 2024 budget as received by the Council.

VOTE: 6 YEAS

9-23 Authorize Standish Memorial Post 128 of the American Legion to Hold a Charity Toll on Moody Road in August [Gaba]

Vice-Chair Leclerc explained that this is a wonderful cause and many local charities raise money holding charity tolls such as this one.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he called for the roll call vote.

WHEREAS, the Standish Memorial Post 128 is a non-profit organization whose fundraising efforts serve the residents of Standish, and

WHEREAS, the Standish Memorial Post 128 desires to hold a charity toll on Moody Road as a fundraiser for their organization, and now be it

ORDERED, that the Standish Town Council authorizes the Standish Memorial Post 128 to hold a charity toll on the Moody Road on August 5th and 6th, 2023, and

FURTHER ORDERED, that the Director of Public Works will direct the Legion members where they can set up in the area of the Transfer Station.

VOTE: 6 YEAS

10-23 Waive No Parking Restriction on Saco Road for the Bonny Eagle Car Show [Gaba]

Vice-Chair Leclerc explained that this is an annual event where the boosters raise money for athletics.

The Vice-Chair call for Council comments, hearing none, he called for public comments.

Theresa Whyte, assistant organizer for the Car Show, thanked them for their support.

Vice-Chair LeClerc called for additional comments, hearing none he called for the roll call vote.

ORDERED that the 'no parking' restriction on the north and south sides of Saco Road between the Standish town line and Cape Road (Route 35 A), shall be waived for a period two hours before the opening of the Bonny Eagle Car Show held by the Athletic Boosters until two hours after the close of the show to be held on May 21, 2023 at the Bonny Eagle High School, and

FURTHER ORDERED that the coordinators of the event shall provide traffic control beginning one hour before and during the hours of the show.

VOTE: 6 YEAS

11-23 Amendment to Town of Standish Fee Schedule – Dogs and Other Animals [Libby]

Councilor Libby noted that these fees mirror state fee recommendations.

Councilor Paul asked what were the court costs?

The Clerk noted that they would be whatever the cost that is included by the town if the case goes to court.

Councilor Paul questioned if medical costs could be included?

Councilor Libby said that would have to be a separate order.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he called for the roll call vote.

ORDERED, that the Town of Standish Fee Schedule is amended as follows, effective immediately:

DOGS AND OTHER ANIMALS ORDINANCE

Abandonment any Animal (per animal <u>listed in summons</u>) (1st violation).....	\$250 <u>\$500 - \$5,000*</u>
Abandonment any Animal (per animal <u>listed in summons</u>) (Subsequent violations).....	\$250 <u>\$1,000 - \$10,000*</u>
Animal Abuse (per animal <u>listed in summons</u>) (1st violation).....	\$1,000 <u>\$500 - \$5,000*</u>
Animal Abuse (per animal <u>listed in summons</u>) (Subsequent violations).....	<u>\$1,000 - \$10,000*</u>
Biting (Dangerous) Dog (s)	\$325 <u>\$250 - \$5,000 ** (PLUS COURT COSTS)</u>

VOTE: 6 YEAS

12-23 Town Council Appointments to Various Boards or Committees [Macri]

Councilor Macri apologized to Heidi and Councilor Watson for the error in the appointment.

Vice-Chair call for Council comments, hearing none, he called for public comments, hearing none he called for the roll call vote.

WHEREAS at the January 10, 2023, Town Council meeting an error was made with the appointment of two positions on order 2-23, now be it

ORDERED that the appointments of Lauren Ramirez to the Recreation Committee and Heidi Watson to the Board of Appeals are hereby withdrawn, and

FURTHER ORDERED that Lauren Ramirez appointed to serve on the Board of Appeals through June 2024.

VOTE: 6 YEAS

PUBLIC ITEMS

- **Charity Boedecker** – Resident, voiced concerns regarding taxes and the impact of the school budget on the town. She noted staffing regarding duplicate duties, Covid funds that have expired but temporary staff that were with those funds are still in place, curriculum matters, and library books. The complete statement is available at the Standish Municipal Center.
- **Eric Bleicken** - Resident, expressed concerns about the students in MSAD #6, books offered in the school libraries. The complete statement is available at the Standish Municipal Center.

ANNOUNCEMENTS

There were no announcements.

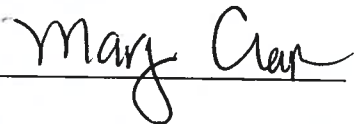
EXECUTIVE SESSION

An additional executive session was not held at this meeting.

ADJOURN

Moved by Libby seconded by Councilor Paul and Voted to adjourn. The Meeting adjourned at 6:49 p.m. by unanimous consent.

Submitted by :
Clerk/secretary



February 14, 2023

Sarah Gaba
Chair, Town Council
Town of Standish
175 Northeast Road Route 35
Standish, Maine 04084

RE: Concerns Regarding Proposed Amendments to Chapter
206 (Noise) of the Town's Code

Dear Councilor Gaba and Members of the Standish Town Council:

I represent Daniel Hawxwell, Benjamin Cutter, and Travis Taylor. I write to express my clients' concerns regarding several proposed amendments to Chapter 206 (Noise) (the "Noise Ordinance") of the Town of Standish's ("Town") Code (the "Town Code"). Attached to this letter is a memorandum drafted by Eric Reuter (the "Reuter Memo"), an acoustics engineer and the principal of Reuter Associates, LLC, detailing various concerns regarding the proposed Noise Ordinance amendments currently before the Town Council ("Council").

As I understand it, the proposed amendments to the Noise Ordinance would: (1) amend § 206-3(A) to establish that sound levels "shall be limited . . . based on the emitting use," (2) amend § 206-4(B) to clarify that noise sources regulated by the Noise Ordinance include "all continuous, normal or frequent or intermittent sound produced by any activity for a period of 30 minutes or more," (3) further amend § 206-4(B) to require that sound levels shall be measured "at or within the real property boundary of the complainant's land," and (4) exempt personal use of firearms for hunting and target shooting on private property. See **Exhibit A** (Proposed Noise Ordinance Amendments).

These proposed amendments threaten to eviscerate the protections the Noise Ordinance currently affords Standish residents from loud, disruptive noise sources. Rather than clarifying which noise sources are regulated by the Noise Ordinance, these proposed amendments only serve to confuse the Town's noise regulation scheme. Indeed, the proposed amendments create both uncertainty regarding the noise sources regulated by the Noise Ordinance, as well as ambiguity regarding where Town officials must measure these noise sources to assess compliance with the Town's sound level limitations. Each of my clients' concerns are discussed in turn below.

First, imposing sound level limitations based upon the emitting use—rather than the receiving use—is illogical, and completely at odds with the Noise Ordinance's purpose, which is to protect the Town's residents from intrusive land uses that produce disruptive sound levels. The Noise Ordinance "is intended to provide guidance for the regulation of noise generated by industrial, commercial, residential, retail and institutional uses *to minimize the impact on the environment*

and abutting landowners.” See Noise Ordinance § 206-1 (emphasis added). Consistent with the Noise Ordinance’s intent, as the Reuter Memo points out, sound levels are limited at the emitter’s property line based upon *the use of the abutting receptor property*. See Noise Ordinance § 206-3 (providing that “dBA sound levels shall be limited *to the abutting property*”). In practice, this means that sound levels emitted from, for instance, a concert venue would be limited to 45 dBA between 7 pm and 7 am at the venue’s property line if the abutting property receiving the concert’s sound is used for residential purposes. See Noise Ordinance § 206-3(A). The proposed amendment to section 206-3(A) flips this notion on its head by establishing sound level limitations based upon the classification of the emitting use, not the abutting use that receives the emitter’s sound. Put another way, instead of minimizing sound level impacts on abutting residential landowners, the proposed amendments increase impacts from commercial, retail, institutional, and industrial uses by allowing each use to emit greater sound levels.¹ See Noise Ordinance § 206-3(A) (compare residential limitations with commercial and industrial limitations). The Council must reject any Noise Ordinance amendment—such as this—that contravenes the Ordinance’s very purpose: to protect Standish’s residents from sound levels that disturb the quiet enjoyment of their homes and properties.

Second, the Council should not limit the Noise Ordinance’s regulations to “noise sources . . . produced by any activity *for a period of 30 minutes or more*,” when there are a whole host of noise sources that last less than 30 minutes, but are just as loud and intrusive as any noise source emitted for a prolonged period of time. The first proposed amendment to section 206-4(B) of the Noise Ordinance would exempt sound levels that last less than 30 minutes—even if those sound levels exceed the sound level limitations in § 206-3(A)—from regulation. For example, as drafted, this proposed amendment would allow a particular use that produces sound levels that are greater than 100 dBAs—which greatly exceeds the non-exempt allowed sound levels for any type of use at any time of day—so long as the sound lasted for less than thirty minutes. I doubt that is the intent of this proposed amendment, but future violators may very well argue that it is how this proposed language must be interpreted.² The Council should spurn this amendment because it exempts a wide swath of disruptive sounds that should be regulated by the Noise Ordinance, and invites disputes between violators and Town officials regarding the Noise Ordinance’s proper interpretation.

Third, amending the Noise Ordinance to require “local law enforcement” agencies to measure sound levels “at or within the real property boundary of the complainant’s land” is both nonsensical, and creates uncertainty regarding how the Town will enforce the Ordinance. Currently, the Noise Ordinance is clear: the Town measures sound levels for compliance “between four feet and five feet above ground at the property boundary of the emitter property.” Noise Ordinance § 206-4(B). The second proposed amendment to section 206-4(B) eliminates any certainty regarding where the Town must measure the emitting noise sources by dictating that such measurements must be taken at either a “complainant[’ s]” property boundary, or

¹ For example, the current Noise Ordinance limits sound emitted by an “industrial” use to 55 dBAs at a property line that it shares with a “residential” use, between the hours of 7 am and 7 pm. If the Council enacts these proposed regulations, then it will increase the sound levels an “industrial” use may permissibly emit to 70 dBAs during those same hours.

² Section 206-5 of the Noise Ordinance already contains a number of uses and activities that are exempt from regulation.

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within the "complainant[']s" property boundary. The Noise Ordinance should be precise. It should provide a uniform location where sound levels are measured for compliance with the Ordinance's sound level limitations. Instead, this proposed amendment creates ambiguity by allowing local law enforcement to measure for compliance from different locations, which will presumably result in different measurements depending upon the proximity to the emitting source.

Perhaps even more problematic is that this proposed amendment to section 206-4(B) presupposes that a complaint is required in order for the Town to measure sound levels emitted by a particular source. Whether a complaint has been lodged against an emitter, or not, is irrelevant. What is relevant is whether an emitter meets the Noise Ordinance's sound level limitations. By tying compliance with the Noise Ordinance's sound level limitations to a complaint, this proposed amendment suggests that emitters need not meet the Noise Ordinance's requirements unless someone complains, and only then will the Town measure sound levels *at the complainant's property*. If the complainant is located several lots away from an emitting source, then the sound levels recorded at the complainant's property boundary may not violate the Noise Ordinance, while sound levels at *the emitter's property line* do. In other words, by amending the Noise Ordinance to ostensibly require a complaint to trigger enforcement, compliance with the Ordinance's sound level limitations is meaningless unless the Town receives complaints regarding a particular source. And then, the emitter is only required to comply with sound level limitations at or with the complainant's property line. The Noise Ordinance should require compliance with its mandates at all times, not just when a resident is so adversely affected by a noise source he/she is compelled to bring a complaint to the Town.

Both my clients and I appreciate the Council's consideration of the concerns presented in this letter, as well as the points raised in the Reuter Memo. My clients urge the Council to reject the proposed Noise Ordinance amendments for the reasons explained above.

Sincerely,



Benjamin J. Plante

Cc: Scott Hastings, Town Planner
Zach Mosher, Director, Standish Planning Department

February 7, 2023

Benjamin Plante
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

SUBJECT: Proposed Noise Ordinance revisions, Standish, ME

Dear Attorney Plante,

I have reviewed both Chapter 206 of the Standish Ordinances, "Noise" and what I understand to be the current draft of proposed changes to the ordinance.

A municipal noise ordinance serves two primary purposes. First, it provides guidance for permitting new land uses that are likely to generate noise. Sound level limits and other conditions can be used to predict noise impacts and design noise control prior to construction or expansion of a facility. A planning or zoning board will often require an applicant to demonstrate the ability to comply as part of an application. Second, the ordinance provides guidance for enforcement during commissioning or in the event of a noise complaint.

It is important that the requirements be the same for both functions of the ordinance – that limits, measurement metrics and locations be the same, etc. This ensures that pre-construction planning will result in post-construction compliance.

The existing Standish ordinance is fairly comprehensive, providing reasonable definitions, reference standards, sound level limits, and methods of enforcement.

Importantly, sound level limits are imposed at the property boundary of the abutting property (206-3(A)). The current language implies that the limits are based on the use of the abutting receptor property. This is the typical approach, as the purpose of a noise ordinance is to protect the well-being of the receivers of the noise. This is particularly important for residential and institutional receptors.

The proposed revision to this section specifies that the limit should be based on the emitting use. As discussed above, this does not adequately protect the receptor. A residence would not be protected from a new abutting commercial or industrial use.

Two of the proposed revisions to 206-4 *Measurement* are also problematic.

In Part B, it is proposed that there be an exemption for sounds lasting less than 30 minutes. It is unclear what sources this is intended to exempt that are not already exempted in 206-5 Exemptions.

It is further proposed that measurements be conducted "at or within the real property boundary of the complainant's land". I assume that this change is intended to simplify enforcement by removing any need for access to the emitter property.

The property boundary is assumed to be shared with the emitter property, so this is effectively the same location specified in 206-3(A). However, for planning purposes, it should be clarified that the requirement for compliance with the ordinance is not predicated on a complaint. An emitter of noise should meet the prescribed limits at all property boundaries, regardless of the attitudes of the abutters. This protects future occupants of the abutting properties.

Sincerely,



Eric L. Reuter, FASA, INCE Bd. Cert.
Principal

AMENDMENTS TO STANDISH TOWN CODE, CHAPTER 206, NOISE

(Additions are underlined; deletions are ~~struck out~~.)

CHAPTER 206 – Noise

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§206-3 Sound level standards

A. The dBA sound levels shall be limited to the abutting property as listed in the table below based on the emitting use.

• • •

§206-4 Noise measurements.

- A. The integrating sound level meter used for noise measurements shall meet all of the Type 1 or 2 performance requirements of the American National Standards Institute "American Standard Specifications for Sound Level Meters" (ANSI S1.4-~~1983~~ 2014 R19 or latest revision) and the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication ~~804-(1985)~~ 61672 or latest revision.
- B. Regulated noise sources include all continuous, normal or frequent or intermittent sound produced by any activity for a period of 30 minutes or more. Sound level shall be measured between four feet and five feet above ground ~~at the property boundary of the emitter~~ property at or within the real property boundary of the complainant's land. Sound level measurements shall be in accordance with ASTM Designation: ~~E1014-08~~ E1014-12 (2021) or the latest revision.
- C. The dBA and dBC sound level measurements shall be conducted using the fast scale.

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§ 206-5 Exemptions.

The following uses and activities shall be exempt from sound level regulations:

• • •

- K. Personal use of firearms on private property for hunting or target shooting and not as part of a club, business, or organized event.