



NOISE

Noise generation is often a topic that is brought to the Planning and Zoning Commission's attention and is presented in two different manners: concern about future noise and concern about existing noise. Ultimately, noise can be a land use *management* issue.

The Planning and Zoning Commission's powers and authority derive from Chapters 124 and 126 of the Connecticut General Statutes, and have been effectuated by the enactment of a Town Ordinance establishing this commission to carry out the purpose of those Chapters. Stonington's Planning and Zoning Commission is a combined commission, acting as both a Planning Commission (Chapter 126 <http://www.cga.ct.gov/2005/pub/Chap126.htm>) and a Zoning Commission (Chapter 124 <http://www.cga.ct.gov/2005/pub/Chap124.htm>). The specific authorities granted to the Zoning Commission is outlined in C.G.S. Section 8-2, and this section does not include any provision for noise control. Reviewing Chapter 126 results in a similar finding for Planning Commission.

So who can regulate noise?

The Commissioner of the Connecticut Department of Environmental Protection (CT DEP) has been empowered by the Statutes to specify how noise will be regulated (C.G.S. Section 22a-67 through 22a-76). Town's can create noise regulations (C.G.S. Section 22a-73), provided those regulations have been reviewed and approved by the CT DEP prior to Town endorsement. The Connecticut Courts have ruled that regulations developed outside of this process are not enforceable.

It was my understanding that Stonington has Noise Regulations!

With no specific date referenced, the Stonington Planning and Zoning Commission adopted noise limitations as part of the Zoning Regulations (ZR 2.13.2.4). The Town Attorney was asked to respond to a staff inquiry concerning the enforcement of the noise regulations, and was provided the following response: *"As far as you and your commission are concerned, neither the zoning enforcement officer nor the Planning and Zoning Commission can regulate noise. Therefore, I would advise that you take no enforcement action for any alleged*

Regulatory Authority of Noise during Local Application Review

	CAN REGULATE	CAN NOT REGULATE
Coastal Area Management		X
Groundwater Protection		X
Map Amendment ¹		X
Regulation Amendment		X
Site Plan Application		X
Special Use Permit	X	
Subdivision		X

¹ Except Floating Zone Master Plans

violation of Section 2.13.2.4. That being said, a Planning and Zoning Commission may take the potential noise from a proposed use into consideration when deciding to grant a permit."

Are we defenseless?

No, the Town Attorney has identified where the Commission can review noise concerns, which is limited to the permitting process. A further review of the statutes provides guidance as to when the Commission has the ability to review noise as part of the application process. First, the application has to involve a Special Use Permit, and second, it has to be part of the application process, not as an enforcement action. The Regulatory Authority of Noise during Local Application Review Matrix should provide the Commission with some guidance about when they can make determinations about noise issues. The Commission can ask for a noise evaluation on any project listed above, if it is reasonable that the use could generate noise outside of what is normally generated.

What can I do about noise?

The Town has the ability to create a noise ordinance and as a citizen you have the right to request this action. Ordinances are a function of the Town Meeting and Board of Selectman and are not part of the land use process (unless an ordinance assigns *enforcement* responsibilities to a land use agency).



Adopting an ordinance and enforcing an ordinance can be two entirely different things. Ultimately, the Town can only **enforce** an ordinance that satisfies the statutory requirements of Connecticut Department of Environmental Protection approval.

Resources:

Connecticut Department of Environmental Protection Noise Control Regulations

<http://dep.state.ct.us/air2/regs/noise.htm>

Noise Pollution Clearinghouse:

<http://www.nonoise.org/>

NOTICE: Staff Commentaries are opinion position papers, and should be considered biased.

CREATED

7/29/2005

1/30/2006

UPDATED